

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**August 31, 2000**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, August 31, 2000 at 1:00 p.m., in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present. Ron Marnell, Chair; James Barfield (late arrival); Chris Carraher; Bud Hentzen; Bill Johnson; Richard Lopez; John W. McKay, Jr.; Jerry Michaelis; Susan Osborne-Howes; Ray Warren and Harold Warner. Frank Garofalo and George Platt were not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner, Barry Carroll, Associate Planner, and Karen Wolf, Recording Secretary.

#### **1. Approval of the MAPC meeting minutes for July 13, 2000**

**MARNELL** "The first item of business is the approval of the minutes. Are there any corrections, additions, or deletions?"

**MOTION:** That the Planning Commission approve the minutes of July 13, 2000 as submitted.

**MCKAY** moved, **MICHAELIS** seconded the motion, and it carried unanimously (10-0).

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#### **2. Review of MAPC membership qualifications**

**KROUT** "Commissioners, at your last meeting, you asked us to provide you with information related to the membership qualifications of the Planning Commission members. We didn't talk about specifics, but I am thinking that in particular that meant the City appointments, the term limits, and you have a couple of Commissioners who are beyond serving 8 years. So I have asked Joe Lang to come this afternoon and try to answer any questions you may have about it.

My understanding is that even when that term limit has been exceeded, that Advisory Board members may continue to serve unless and until their appointment has been replaced by a new appointment. That is the situation in both of these cases."

**JOE ALLEN LANG** "I am from the Law Department. Is the question anything further than what Marvin alluded to? I can give a summary of the Ordinance."

**MARNELL** "I think we are probably a little further than an advisory board. The powers of this board as versus just the general advisory boards of the City. We should make sure that we have proper appointees on this thing because we have had this issue before of making sure we have a quorum, making sure that people aren't in violation of it, and in fact, people have missed meetings and have to be re-appointed properly. So we need to be in order. What is the procedure when someone's time period is passed?"

**LANG** "Mr. Marnell, your statement is very correct that this board is more than an advisory board, and we try to follow very closely to avoid any issues arising where the actions which are legal actions under Kansas statutes, where your actions cannot be challenged for procedural basis. So we do try to follow that thing.

However, this board, as far as the City appointees, is subject to the City Ordinance that applies to Council members saying a Council member cannot appoint someone who has served 8 consecutive years on a board until 2 years have passed since the last service. Marvin has correctly stated our legal opinion on this issue. This talks about new appointments. A person continues to serve until their successor is appointed and qualified. Often people have exceeded the 8 years because the appointer has not gotten around to making a new appointment."

**MARNELL** "I would take it that there is no reasonable time standard on that?"

**LANG** "No. What is happening is legal, whether or not it violates some unstated policy of the Council. I think that is an issue for the Council members to discuss between themselves whether someone is making timely appointments. But as far as the legality, all members, to the best of my knowledge, are currently legally appointed, qualified and serving that are on this board."

**JOHNSON** "What if there was a case that we heard and maybe it didn't go a certain way that somebody wanted it to go, could it ever be challenged that the Commission was not up to the right standards?"

**LANG** "Obviously, Mr. Johnson, that is a concern we have and that is why we have looked at the issue and we feel that at least someone serving in a 'hold-over' status does not disqualify them. They are legally appointed and serving until their successor has been appointed or until they are removed from office according to the Council procedures.

But appointments are something that is within the discretion of the Council members, how they make those. They have their guidelines that they are supposed to follow in making those appointments."

**MICHAELIS** "I guess the question I would ask, then, is: if I am understanding that right, if a Council person appoints somebody and they appoint them to start their seventh year and they continue to serve thereon out until they make another appointment, but now is there a point in the City Council Policy where they become remiss in not making an appointment and just letting that ride?"

**LANG** "That is an issue for the Council members to discuss amongst themselves. If the Council members feel that someone is not timely making appointments, that is up to them to let each other know. Council members are still making their appointments from over a year ago when all of the terms were up. Every week, there is an appointment on the City Council agenda, and periodically somebody has a new appointment for something. Sometimes some of them take a little longer than others in making their appointments."

**WARREN** "This is kind of hypothetical. If someone, for instance, based on this Council policy, had served two consecutive four year terms and then was allowed to serve two more years, would they then be allowed to go ahead and be re-appointed because the two years had expired?"

**LANG** "I'm not sure I follow, Mr. Warren, but the City appointments here are for two years, so a person can serve eight years. After a person has served eight years, then they have to be out of service for two years before they can be re-appointed to another two year term."

**WARREN** "Unless somebody just failed to re-appoint somebody to take your place, and they, in fact, just stay in the seat, which maybe would be the qualifying period of two years? Because they hadn't been appointed for two years, they just simply weren't dismissed."

**LANG** "That is the protection or the anomaly we have in the Ordinance. You serve until your successor has been qualified to serve. It frequently happens that that runs for several weeks or several months, and in a few cases, it has run longer."

Barfield arrived at the meeting at 1:15 p.m.

**HENTZEN** "I tried to read that Ordinance, and it became clear to me that what I thought the Council intended was that there was an eight year limit. Apparently, that is a misinterpretation. I want to ask you why the appointments have not been made according to that resolution?"

**LANG** "I guess looking at the intent, I don't know what the intent was of the Council back in the 1980s when they adopted the term limits. But from our legal interpretation, after eight years of service, a person cannot be re-appointed. I don't know that I can go beyond that. As to why it is not being followed, I think it is being followed. It has not been violated by its legal letter. Now whether the intent has been violated, again, that is something that the Council members need to discuss among themselves. But legally, we are good."

**HENTZEN** "Well, if you aren't prepared to answer that, would the City Council members care to answer it?"

**LANG** "You would have to ask them. I can't speak for them."

**HENTZEN** "Well, I thought this request that came up the last time we met, was asking that very question."

**LANG** "My understanding of the request was the legal status of whether or not all members of the Board were legally qualified to serve. And our answer to that is yes."

**HENTZEN** "Okay. I understand what you are saying, but I don't know why they have the Resolution if they aren't going to pay any attention to it."

**LANG** "For this body here as a Planning Commission, where you have set qualifications and requirements in your By Laws, you have the ability and obligation to enforce those and make sure they are complied with. But for those things left to the City Council and the County Commission, you have to defer back to them as to why they have or have not followed procedure and their own rules."

**HENTZEN** "Joe, have we ever had this happen before that you know of?"

**LANG** "As I said before, it happens frequently, but it is usually a matter of weeks or months."

**HENTZEN** "I am talking about the MAPC."

**LANG** "Yes, it has, but I don't know for how long, and I was not aware of the lengths of time here until the question came up this week."

**HENTZEN** "Let me ask you to go a little deeper into this legal thing. Would there ever be a limit, under this policy, would there ever be a limit, that is that they don't appoint somebody new, so they stay on for a couple of years like we have done now...how about if they stayed on for another five, six or eight years. Is there a limit anywhere?"

**LANG** "The limit is that the appointing person or the successor of the appointing Council member because they have term limits, too, at any point can make that appointment."

**HENTZEN** "I see."

**MARNELL** "Are there any other questions? Thank you, Mr. Lang. Does anybody care for any further discussion on the item?"

**HENTZEN** "Mr. Chair, as you know, I mentioned to you that I have to leave at 3:30, and at the last meeting that we talked about a new Chair and new Vice-Chair. Was that supposed to be done today? Or in September?"

**KROUT** "On September 21, the next regular meeting."

**MARNELL** "I might make everybody else aware that Commissioner McKay also has a time sensitive matter. He is going to have to leave at 3:15 or thereabout. So we need to get on through our agenda. I think we do have an item that is time-certain after that."

**KROUT** "We have an item scheduled for 3:30. We have an indication from the applicant that he may want to defer that item again, but it was too late for us to cancel the hearing, so we do expect that there will be people here, so hopefully we will have a quorum."

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**3. Briefing on North Midtown Neighborhood Revitalization Plan**

**DAVE BARBER**, Planning staff "I would like to give you some background on the development of this plan, and then I will get into a description of some of the highlights.

The City was awarded a Community Capacity Building grant for neighborhood planning purposes to undertake the preparation of a neighborhood plan for Midtown North back in late 1998. The planning area is identified by Broadway on the east, Arkansas on the west--17<sup>th</sup> Street constitutes the south boundary, and 25<sup>th</sup> Street constitutes the north boundary of the planning area. The area between 17<sup>th</sup> and 21<sup>st</sup> falls within the Historic Midtown Citizen's Association area, while the area north of 21<sup>st</sup> up to 25<sup>th</sup> falls within the North End Neighborhood Association.

Development Concepts, Inc., from Indianapolis was hired in the spring of 1999 to undertake the preparation of this plan. Several community stakeholder meetings were held from September of last year through March of this year in order to obtain neighborhood input into the development of the plan. At least two of these meetings were held in Spanish in recognition of the significant Hispanic population that lives in the plan area.

While there was general community support for the plan, there were some outstanding issues pertaining to 21<sup>st</sup> Street improvements that needed further community discussion following the completion of the consultant's contract in March. Lack of consensus on some of these issues also stem from the fact that there was a lack of continuity in the stakeholder meeting attendance, plus there was also inconsistent stakeholder participation over the course of developing the plan. Consequently, there were a different set of faces at each of the meetings and it was difficult to build that continuity in discussion and consensus building. Nonetheless, a final draft plan, which is the document that you have dated February 2000 was completed, incorporating the bulk of the neighborhood consensus reached in addressing some of these planning issues.

In April of this year, Joan Cole, City Council member for the area, appointed what she called the 21st Street Task Force, which was essentially comprised of D.A.B. #6 members and some other key neighborhood stakeholders, to review this final draft plan and to reach consensus on some of the unresolved issues. The final recommendations of that 21<sup>st</sup> Street Task Force have been summarized in the addendum that was included in your information packet.

I will now proceed to describe some of the plan highlights. A total of 8 plan goals have been recommended. You will see on Page 23 that there were originally 9 goals proposed. The Task Force is now proposing 8 goals and their associated action steps. Four of the goals are focused on community programming and community capacity building issues while the other four goals are related more to physical improvements and infrastructure and appearance in the neighborhood.

Goal No. 1 now reads 'to continue to focus on crime reduction work in the area, recognizing that the crime rate, especially gang and drug related crime has decreased in the neighborhood'. That is a slight re-wording. Goal No. 2 now reads 'establish a community policing presence in the Evergreen Center'. Initially, there was a desire to create another police substation in the neighborhood. The third goal is unchanged, 'add street improvements'. I will get into a description of those improvements as I go through the physical development element of the plan at the end of my presentation.

The fourth goal is also unchanged 'add better street lighting'. Although there has been some recent street lighting added to the neighborhood, there is still a lack of adequate lighting in the area south of 21<sup>st</sup> Street in the residential neighborhoods. They have been identified on an attachment that is included in the addendum. The fifth goal is to 'encourage local involvement in economical development and preserve business opportunities, including expanding upon the better marketing and promotion of community recreation programs in the Evergreen Center' which is related to goal

No. 6 'using local churches, schools, and businesses'. The seventh goal now reads 'to preserve and strengthen neighborhood churches rather than focusing on one particular church in the neighborhood. And then the last goal, which has been unchanged by the Task Force. It is to 'preserve historic buildings', particular the Nomar Theater.

That is a quick summary of the goals, and there is a whole series of associated action steps, which are designed to implement each of these eight goals. They have remained largely unchanged after the Task Force's review.

I will now move into a description of some of the physical plan elements, which are described, starting on Page 31 of the plan. These physical design elements are primarily focused on defining the role, character and some design elements of the 21<sup>st</sup> street corridor, trying to create it as a neighborhood business center, encouraging the celebration of ethnic diversity in neighborhood uses, building designs, street scape design, and possibly some development guidelines, and also maximizing building retention and reuse in the overall neighborhood.

In terms of the of the 21<sup>st</sup> improvements, the Task Force is recommending that the 21<sup>st</sup> Street needs to function as a neighborhood retail corridor with pedestrian orientation and a focal point at Market and 21<sup>st</sup> Street, which is where the existing focal point actually is at present. There is a good concentration there, even though there is commercial development all the way along 21<sup>st</sup> Street. They feel that this is the neighborhood focal point; the idea is to avoid any kind of improvement to 21<sup>st</sup> Street that would transfer it to a heavy through-traffic corridor. They are also proposing to widen 21<sup>st</sup> Street from Broadway over to Market to allow for a southbound left turn lane proceeding west on 21<sup>st</sup>. The widening would also allow for parallel parking along 21<sup>st</sup> Street with some parking restrictions as necessary during peak travel periods, but the parallel parking would probably be concentrated between Broadway over to Park Place. They are proposing that an information kiosk be established somewhere along the 21<sup>st</sup> Street corridor.

There is also an identified need to straighten out Market Street on either side of 21<sup>st</sup> Street where there is an irregular configuration. It creates some confusion to people who don't regularly frequent the area. There is also a pedestrian safety problem. If it is proven not feasible not to straighten Market, then the Committee has recommended that crosswalks be installed at that location. Also, they are proposing that left-turn lanes westbound on 21<sup>st</sup> at Waco and Arkansas are necessary to relieve some congestion points at both Arkansas and Waco. Installation of 8-foot side walks along both sides of 21 from Park to Broadway, and also the establishment of the gateway for the area. The site yet to be determined, but probably in association with the Mercado, or International Market Concept, which is also discussed in the plan, and I will touch on that in a minute as well.

The Mercado Concept was discussed on Pages 40 and 41. A couple of potential sites were examined south of 21<sup>st</sup> and the Market Street area here and north of 21<sup>st</sup>, west of Market. There was no consensus on the exact location. It was felt that further study is needed before any particular site could be recommended as being appropriate. We have to look at issues of scale, location, design, traffic flow considerations, etc. So that, realistically, would be subject to a separate design and marketing study.

In terms of the commercial development along 21<sup>st</sup> Street, there is a recommended need for a streetscape design. Some sort of study to look at hardscaping, signage issues, landscaping, façade improvements. They feel that further policy work and design work is needed in that 21<sup>st</sup> Street corridor west of Broadway, probably over to about Park Place, at a minimum, to help create some visual cohesion, and it was suggested that some existing buildings on the southwest corner of Market and 21<sup>st</sup> could prove a useful model or prototype for some design elements. Incorporating their architectural style as a common theme throughout that particular area.

In terms of zoning adjustments, the Committee feels that there is a need to create a better fitting zoning for the neighborhood to reflect the lower density residential patterns that currently exist there, and the realities of future residential redevelopment in this area are not likely to be of a high density nature. So there are some zoning issues here where we have very high density zoning as a potential; also, in the corridor over here (indicating), where in reality, this is a very low density residential neighborhood, and will likely remain so in the future. So, they are recommending that a downzoning initiative be taken to take a closer look at some recommended downzoning for the neighborhood.

That is pretty much it in terms of plan highlights. These recommendations are going forward to D.A.B. #6 on September 11. The D.A.B. is holding a public forum to get some final input on this and then they will be making their recommendation to you for your consideration, prior to adoption of this plan. It is also recommended that a public hearing be set for perhaps October 19 wherewith you could consider adopting this plan and making recommendation to the City Council. I would be pleased to entertain any questions at this time."

**MARNELL** "I have a question. On the addendum piece, under the Revise Goal No. 6 where you had to add 'KPTS' under the Partners list. Where did that recommendation come from, KPTS?"

**BARBER** "Yes. They have become an active stakeholder in the latter stages of this plan development, and have stepped forward and are willing to act as a lead partner in helping to revitalize this neighborhood. They are looking at expanding their existing operation there and they want to do it in a fashion that will integrate with the neighborhood. They have some rather unique ideas of expanding their facility and integrating some community programs, so they actually requested to be named as a specific stakeholder-partner."

**MARNELL** "Okay."

**WARREN** "Do we have a map in here that shows the existing zoning? I assume you are color-coded there for zoning?"

**BARBER** (Indicating) "This is existing zoning here."

**WARREN** "Right. Do we have that?"

**BARBER** "No, that is not in the plan."

**WARREN** "When we start talking about down-zoning, I guess I would like to know where we are before we start up or down. I don't see anything that we have other than what you are showing us here."

**BARBER** "It is only a policy recommendation, at this time, to look at that issue. There is no proposed down-zoning now."

**WARREN** "But from the standpoint of a Planning Commissioner, if I don't know what the zoning is, I am not going to be very intelligent about looking at it. I would assume that maybe we will be given one of those maps that shows the zoning that is in that area."

**BARBER** "we can certainly do that. We described the zoning verbally, but there is no map."

**WARREN** "Well, for instance, what is the brown zoning up there?"

**KROUT** "It is 'B' Multi-family. It allows high-rise apartments of 74 units per acre."

**WARREN** "And that is existing now? Okay. And the bright red is what?"

**BARBER** "The bright red is Limited Commercial."

**WARREN** "And the pink?"

**KROUT** "That is General Commercial."

**BARBER** (Indicating) "This is all industrial over here. This is 'MF-29' and this is duplex."

**WARREN** "That is the old single-family, which also allowed for duplex?"

**KROUT** "It also allowed for limited duplex, duplex up to 50% of the block face. But since the City adopted the new single-family district, the duplex zone was changed to allow for every lot on the block face to be duplex."

**WARREN** "Well, if this board is going to consider zoning down changes or up changes, I would like to have a map to see where we are if we are going from a base to something."

**KROUT** "I think generally our policy has been that we need to be specific and also to have a show of support, based on petitions from the majority of the affected landowners in an area before we would get into any kind of detailed study of that."

**BARFIELD** "You mentioned two recommendations, I believe. One to widen the street to provide for parallel parking and also to provide for a left-turn lane?"

**BARBER** "Right."

**BARFIELD** "How would you do that? I mean, how would you accomplish both?"

**BARBER** "They would have to acquire the north side of 21<sup>st</sup> Street, at least this block here (indicating). There are plans that have been reviewed with the neighborhood that show the amount of road widening that would be required to facilitate that left turn lane effectively. It would mean that that whole block would have to be acquired by the City.

Beyond that point, the widening really diminishes. The most significant widening is in this first block here from Broadway to Market and then it gradually diminishes as you go further west."

**WARREN** "So to effect that core area that you are talking about between Market and Broadway, then, you are saying the acquisition of land by the City?"

**BARBER** "Oh, yes. I think that is required at a minimum to accommodate that left turn lane southbound on Broadway anyway. I think the neighborhood realizes that and they see that as an opportunity to also maybe get some wider sidewalks and maybe implement some parallel parking in a block or two here."

**WARREN** "There are currently sidewalks all along there."

**BARBER** "They are very narrow though."

**WARREN** "But they are all along 21<sup>st</sup> Street there on the north side, I know."

**BARBER** "Yes, and on the south side, too. But if you ever walk there, they are very narrow. (Indicating) They are probably only about this wide. Not very safe."

**MCKAY** "In your scenarios Nos. 1 and 2 on Page 40 and 41, you are showing this as commercial, but you are showing it just on the north side. Is that because that is where the land acquisition would be by the City and they would have to be re-done. Is that the whole thing?"

**BARBER** "I think that was the thinking at the time that was prepared. At this point in time, it is just a concept and it is not being recommended."

**MCKAY** "The reason I am asking is because also in here, you talk about using the Nomar building, let's say, for example. It has kind of an architectural design and I can see that possibly being done on the north side, but you have an awful lot of old properties and old stuff on the south side that would be like half a chicken or half a loaf, one half being cooked and the other half being raw or something. If you go through that overall scheme and maybe not buy the land to the south; let's see if we can't do some architectural stuff to it."

**BARBER** "Yes, and the Committee recognized that when they looked at that whole neighborhood. There is no easy solution to this question because of the parking considerations. They looked at the site south of the Nomar and looked across the street from the Nomar. Garcia's Tacos is south of there. Land assembly would be easier up here (indicating), but they felt that that wasn't really central, so they decided to make no decision, really. It is just that it is a good idea that needs further study."

**MICHAELIS** "Did I understand you to say that the idea would be not to widen 21<sup>st</sup> Street to keep it narrower?"

**BARBER** "They want to slow the traffic down."

**MICHAELIS** "It seems to me if we take the example of 21<sup>st</sup> Street over east between Hillside and the Canal Route, that is one of the better success stories this City has had as far as widening the street and creating less congestion and everything by widening it than by keeping it narrow. This seems like the perfect place to do the same thing."

**BARBER** "The neighborhood doesn't want that."

**MICHAELIS** "Is it a question of what the neighborhood wants, or what is best for the City?"

**BARBER** "I don't think the City has a position on it, frankly. This is what we have heard from all of the stakeholders at all of the meetings, that they are concerned about increased traffic congestion on here. They just want to create a more pedestrian-friendly street environment; they want to encourage neighborhood shopping here. Just the fact that they want to think about parallel parking will slow traffic down."

**MICHAELIS** "Yes, but is what they are wanting to do anything than what they did on 21<sup>st</sup> Street? That is the same thing they wanted to do there and it looks to me like it worked pretty well. I think, from a planning standpoint that is probably something we ought to consider."

**LOPEZ** "When the first recommendation was made on the traffic study, probably three or four years ago on 21<sup>st</sup> Street east to west, the bottle neck was identified as from Hood to Broadway, or to I-135. It was the second highest traffic east and west arterial and the bottleneck was there. The recommendation at that time was to widen it to five lanes and keep it consistent all the way across. Myself and some of the other community members were pushing that particular agenda because we felt it was beneficial to the community also. It was not an agenda that was supported by other individuals and Council members. So after a meeting last November, I believe it was, the last community meeting, the Council members decided to set up a task force appointed by Joan Cole, and that is the group that would continue forward with the studies."

Original members have not been invited back to meetings that were especially concerned about the widening and the development. That whole scenario was changed when it wasn't going the way it was perceived."

**HENTZEN** "My question is a little broader, Dave. On Page 10, you have identified, by a map, the green areas. I believe the one we are talking is maybe down north, Orchard Park on the west, Hilltop, Planeview, and the larger area northeast there in District 1. What is the official title for that one?"

**BARBER** "District 1?"

**HENTZEN** "Yeah. That is the largest green area. All of the rest of them have names. What is that one?"

**BARBER** "I think there is a number of them. There is the McAdams area, there is the northwest..."

**HENTZEN** "What I am getting at is that we are going to be asked to establish a date for a public hearing and to either accept or reject this plan. If we accept it, it becomes then, a part of the Comprehensive Plan. Am I not right?"

**BARBER** "Yes."

**HENTZEN** "What I am asking is, it seems like a wish list for the whole City with all of these green spots, and there are other places like Delano neighborhood and some of the other neighborhoods that have ideas as to what they want in their area. Has anybody put any kind of numbers on that as to what it is going to cost? If we put it in the Comprehensive Plan and can never do it because of money, haven't we misled the neighbors and the people there are saying 'you made promises you didn't follow up on'. It just seems to me that all of these things are going to come down, like the school deal, after so many years of negligence, we need \$284 million for schools buildings. Is that where we are headed?"

**BARBER** "I don't look at it that way. This plan is a 30-year plan. A lot can happen in 30 years. We all know, in our own personal lives, not only on these plans, that our plans change. Things we have planned on happening oftentimes don't come to fruition.

I think it is the act of thinking ahead, trying to create a vision that is most important. If it takes you 30 years to create it, well, it will take you 30 years. I don't think anyone in any of these neighborhoods is expecting things to happen overnight, but it is the beginning of the next step. It provides a basis for discussion with the City Council on C.I. P. issues; it helps mobilize the community to focus their energies and instruct a goal for something. I don't get too concerned with these things."

**HENTZEN** "I happen to like this plan and would throw Holy Water on it, if I could, to make it happen. But I don't want to mislead the neighborhoods into thinking that this is going to happen if we have no possibility of it happening."

**BARBER** "I don't think so. We do know that the 21<sup>st</sup> Street improvements are a commitment and they will happen in the short term. Already we are starting to do some design work on these 21<sup>st</sup> Street improvements. So, they are going to happen sooner than later. In the neighborhood there, they say they have waited 20 years already for something to happen and nothing has happened. Now, things are starting to happen out there."

**WARREN** "Twenty-First Street now is basically being used as four lane, and you don't have parallel parking. You have two lanes going each way in that area."

**BARBER** "Yes."

**WARREN** "Of course you know that that area, at one time, had parallel parking and we had one lane. That was many years ago. When I went to the Nomar, that is the way it was. This is kind of a myth, I think. Maybe we have perpetrated here that if you keep the street narrow you would eliminate the traffic. I think all you would do would be to create congestion."

**BARBER** "Well, you do slow it down."

**WARREN** "I don't think you eliminate the traffic. You just cause congestion there."

**BARBER** "People who want to fly through the area will choose an alternate route."

**WARREN** "Either that or they will fly through it anyway."

**HENTZEN** "You know, Dave, I read that thing carefully, and it seemed to imply that the odor from that rendering plant was mentioned quite a few times."

**BARBER** "It came up frequently, yeah."

**HENTZEN** "It did come up frequently, and as I sit here and think if we made that a really good run from way over at the Arkansas River clear to I-135 and did nothing about the rendering plant, you still have a hell of a problem."

**MCKAY** "You could go faster that way and you wouldn't smell it as long."

**BARBER** "It is not the people passing through that it is a problem to, it is the people that live there and do business there. There is no easy answer to that odor problem."

**HENTZEN** "I just hate to see a commitment to a really expensive idea and not solve that one problem."

**BARBER** "I think that was one of the main issues with this whole International Market and Mercado concept was, even if we came up with an ideal location, we have an odor problem that could compromise the viability of that. That is why they said that this needs further study."

**HENTZEN** "Exactly."

**BARBER** "But I don't think that has anything to do with the improvements on 21<sup>st</sup> Street. People shop there, they work in the area and they want a more neighborhood friendly environment."

**HENTZEN** "So therefore if we don't solve the rendering plant odor, we should still think positively about this."

**BARBER** "Oh, absolutely. That is the Committee's view."

**HENTZEN** "Okay. That is what we did down on South Hydraulic. The City plant, I am talking about the treatment plant, didn't smell all that good. We just put up with it."

**MARNELL** "Dave, I have a question. When this plan does come back for public hearing, and following the public hearing, I assume then at that time that the Commission makes whatever changes they want to make to that plan before it forwards to the City Council to be incorporated in the Master Plan; and probably to the County Commission, I would guess, since it is part of the Comprehensive Plan."

**BARBER** "Right. And if you see any major problems at this point in time, you might want to let us know and we can bring that forward to the D.A.B. meeting on the 12<sup>th</sup>."

**MARNELL** "I personally see one. I don't know whether you can get a consensus around here, but I think whoever came up with the idea of parallel parking on a through street like that wasn't thinking very clear."

**LOPEZ** "I will guarantee you that there are some problems with this plan. This is the first time I have seen it since the revisions, so I will take it back to the other members so they can have their input. The parking is definitely a concern because 21<sup>st</sup> Street is as congested as can be now."

If you want to make it even more congested, then that justifies the City's position to bring 25<sup>th</sup> Street across and down. We see that. If you make it congested, then it would justify bringing 25<sup>th</sup> Street through."

**KROUT** "Which is still, by the way, an open issue."

**LOPEZ** "But we are setting up the scenario. We see it."

**KROUT** "I don't know. The City is moving in other directions and in other areas. The West Douglas streetscape plan, west of the Ark River is to turn that street into a two-lane street with angle parking. That is definite."

**WARREN** "Where is that, Marvin?"

**KROUT** "Douglas between Seneca and McLean. That area does carry a fair amount of traffic."

**MARNELL** "Yes, but I would hope that we would have the traffic planner take a look at that and make some strong recommendations that have some intelligence behind it as to what it is going to do to the traffic flow and have the Traffic Engineering Department take a look at that as well."

**KROUT** "It is a sub-contract that is under the direction of Public Works and they are not objecting. And I think that this is part of a movement that we are seeing in other communities. It may never come to Wichita, but the idea is that streets serve a whole variety of functions and one of them is through traffic and some streets primarily serve the through traffic purpose and on other streets, the traffic is more local."

Streets that are designed to be through traffic streets, unless you are talking about very large scale with great access control along those streets, tend to be streets that aren't necessarily very friendly to businesses. If you think about other communities that you have visited, some of those commercial streets are very congested, and some of those cities would be able to put four lanes instead of two lanes and some parallel parking on some of those streets.

But they have chosen not to do that because that street has been identified as a shopping street. One of the things about 21<sup>st</sup> Street in this area, and even 21<sup>st</sup> Street to the city east of I-135 is that the traffic has declined, in some segments, fairly dramatically since the K-96 connection was built. It eliminated a lot of the through traffic that used to be dependent on 21<sup>st</sup> Street. So, there is actually less traffic on 21<sup>st</sup> Street now, in most of those segments than there was before."

**MARNELL** "It certainly does seem like that area is ripe for redevelopment. But potentially taking some of that property and putting it in a parking lot behind that commercial zone. That would make a lot more sense than parallel parking on 21<sup>st</sup> Street."

**BARFIELD** "In a shopping area, one of the amenities is to offer off-street parking. You could have all kinds of complications with on-street parking. You have the dangers of someone opening their car door into oncoming traffic. There are all kinds of dangers there. It doesn't sound very feasible to me."

**BARBER** "This is certainly an issue that we will bring forward at the D.A.B. meeting. We need a recommendation specifically on the parallel parking issue because there was not uniform consensus on this issue. I think we need some direction from the neighborhood."

**KROUT** "I will say that, and maybe we should try to bring someone from the Urban Land Institute or someone, to talk about this. The newest way of building shopping centers these days is to build internal streets with parallel parking because people identify with it; it feels like a town center; it feels friendly. Parked cars provide a buffer between pedestrians and the traffic that is on the other side of the parked cars. There are a lot of advantages to it. We have parallel on East Douglas and some other streets, and I guess I would just ask the Planning Commission to be a little bit



open minded, and maybe it is our obligation to try to show you that there are a variety of ways that people are dealing with this.

**MICHAELIS** "Well, I think that if we were talking about a six lane road and taking two out for parallel parking and going both ways. Yes, that probably makes a lot of sense. But if we are talking about taking a four lane road, and taking away two of those, and now we only have one going each way, and every time somebody is parallel parking in and out, it shuts that lane down."

**KROUT** "I think the idea would be to design this so that it would have two lanes in each direction, a left-turn lane for the turns onto Broadway, and sufficient with area beyond those four lanes on either side or up one side only, maybe, for parallel parking."

**MICHAELIS** "Well, that is not the impression I was getting. I was getting the impression that it was parallel parking and one way each way."

**KROUT** "No, this was five lanes and then parking beyond it. The idea is that to do anything on 21<sup>st</sup> Street, you are going to have to take the property, probably on the north side. That gives you flexibility as to why to make that cross section."

**MCKAY** "When did you say this public hearing was going to be, with the D.A.B. group?"

**BARBER** "September 12, at the Evergreen Center."

**MARNELL** "Does anyone have any further questions of Mr. Barber?"

**OSBORNE-HOWES** "We have talked about parking and traffic. Are there any other problems about this plan that we want to mention and get feedback on?"

**LOPEZ** "Other than traffic?"

**OSBORNE-HOWES** "Or a subject that we haven't brought up. I was just curious."

**LOPEZ** "The item on the commercial area that was discussed. The majority of the initial proposers have definitely made the comments that the Central Commercial, the commercial area should be four square blocks, not one block. One block won't accommodate anything when it comes to businesses and tourism up there. We were definitely told by the Council member that that was just too big for our area. Some of them think that, but that is not going away from our thinking and bringing commerce and business back up there. You have to have a large enough area to support it, and one square block is not large enough."

**HENTZEN** "In order to get on with our other business, I would like to propose that we set the public hearing that the recommendation asks for. I believe it says for October 19. Then we can get on with our afternoon business."

**MARNELL** "If you will make that in the form of a motion.."

**MOTION:** That the Metropolitan Area Planning Department receive the briefing update on the Midtown North Neighborhood Plan, and authorize a public hearing for October 19, 2000 to consider adopting the Plan as an element of the Comprehensive Plan.

**HENTZEN** moved, **LOPEZ** seconded the motion, and it carried unanimously (11-0).

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**RON MARNELL**, Vice-Chair, read the following zoning procedural statement, which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in

on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

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**Consideration of Subdivision Committee recommendations**

**MARNELL** "Is there anyone here from the public to be heard on items 4/1 through 4/3? Seeing none, we will bring it back to the Commission."

Subdivision Committee items 4/1, 4/2 and 4/3 were approved, subject to the Subdivision Committee recommendations (**MCKAY** moved, **CARRAHER** seconded the motion, and it carried unanimously (11-0).

- 4/1. SUB2000-64** - One-Step final plat of BOSLEYS FIRST ADDITION, generally located on the northeast corner of Broadway and MacArthur.
- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees are required.
  - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
  - C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan needs to be revised.
  - D. Traffic Engineering should comment on the need for access controls. In accordance with the Subdivision regulations, any access openings located within 250 feet of the intersection of Broadway and MacArthur are limited to right-turns only, and shall be referenced on the face of the plat; or a guarantee provided for the future construction of a raised medial. The final plat shall reference the access controls in the plat's text. Access control except for one opening is required.
  - E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
  - F. If platted, the building setback may be established at a minimum of 20 feet to conform with the GC District zoning standards.
  - G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
  - H. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
  - I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
  - J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
  - K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
  - L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
  - M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army

Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**4/2. DED2000-20** - Dedication of a Utility Easement, generally located on the north side of McCormick, east of Tyler.

OWNER/APPLICANT: Larry Hackney, Brant Investments, 1117 Dayton, Wichita, KS 67213

LEGAL DESCRIPTION: Commencing at the southwest corner Lot 1, Block 1, Carriage House Plaza Fourth Addition to Wichita, Sedgwick County, Kansas; thence south 89° 26' 35" west along the south line of said Lot 5, Block 2, Carriage House Plaza Second Addition, for a distance of 186.60' to a point of beginning; thence north 00° 03' 23" east along the west line of said Lot 1, for a distance of 10'; thence south 89° 26' 35" west parallel with the south line of said Lot 5, for a distance of 20'; thence S 00° 03' 23" east parallel to the west line of said Lot 5, for a distance of 10'; thence north 89° 26' 35" east along the south line of said Lot 5, for a distance of 20' to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-59 and is being dedicated for the construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

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**4/3. DED2000-21** - Dedication of Access Control, generally located on the north side of McCormick, east of Tyler.

OWNER/APPLICANT: Larry Hackney, Brant Investments, 1117 Dayton, Wichita, KS 67213

LEGAL DESCRIPTION: Commencing at the southwest corner of Lot 1, Block 1, Carriage House Plaza Fourth Addition, an Addition to the City of Wichita, Sedgwick County, Kansas; more particularly described as:

Commencing at the southwest corner of Lot 1, Block 1, Carriage House Plaza Fourth Addition; thence west along the south line of Lot 5, Block 2, Carriage House Plaza Second Addition, for a distance of 186.60' to a point of beginning; thence north 00° 03' 23" east parallel with the west line of said Lot 1, for a distance of 120'; thence south 89° 26' 35" west parallel with the south line of said Lot 5, for a distance of 112'; thence south 00° 03' 23" west parallel with the west line of said Lot 1, for a distance of 120' to the south line of said Lot 5; thence north 89° 26' 35" east along the south line of Lot 5, for a distance of 112' to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-59 and is being dedicated for access control except for one opening along McCormick.

Planning Staff recommends that the Dedication be accepted.

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**LISA VAN DE WATER**, Planning staff, "Both agenda items 5/1 and 5/2 were heard at the Subdivision Committee meeting last week. I have nothing further to add beyond the comments that were made at that time, but I will answer any questions that the Commission might have."

**MARNELL** "Are there any questions of staff? Is there anybody here from the public to be heard on these items?"

**AARON GRAVES** "I live at 6906 Garden Ridge here in Wichita. I am the former President of the Homeowners' Association. We are just building a bridge to replace a low-water walk bridge that was washed out a couple of years ago. We are putting a clear-span bridge up out of the flood plain and are just trying to expedite the process."

**MARNELL** "Are there any questions of the speaker? Thank you. Is there anyone else to be heard? Can we have a motion?"

**MOTION:** That the Planning Commission recommend to the governing body that the requests be approved.

**MCKAY** moved, **WARREN** seconded the motion, and it carried unanimously (11-0).

**KROUT** "Mr. Chair, Lisa said she didn't have anything to add, but I did want to add for her that this is Lisa's last week with us. She has accepted a position working as a planner in Salem, Oregon. It will probably be a little easier than being a planner in Wichita, Kansas. I think she learned the ropes here and has been a terrific planner for us. We knew that since her husband has been living in another city all of this time that that probably wasn't going to be a very permanent situation for us, but we are sorry to see her go. But she will be keeping in touch."

**MARNELL** "Lisa, thank you for your service to the Commission and to the community at large."

5/1. **VAC2000-32** - Request to vacate street right-of-way, located south of 13<sup>th</sup> Street North, on the east side of Woodlawn, described as:

Commencing at the Southwest Corner of Lot 5, Highland Square Addition to Wichita, Sedgwick County, Kansas, thence North on the West line of said Lot for a distance of 190.94 feet to the point of beginning; thence North on the west line of said Lot 5 extended for a distance of 35 feet; thence East on the North line of said Lot 5 extended for a distance of 25 feet; thence South for a distance of 35.0 feet; thence West 25.0 feet to the point of beginning. Generally located South of 13<sup>th</sup> Street North on the east side of Woodlawn.

The applicant is requesting to vacate a portion of street right-of-way adjacent to his west property line for the construction of a drive-up ATM for Fidelity Bank. At the request of City of Wichita Engineering Department, the applicant has agreed to dedicate contingent street right-of-way for a portion of the requested right-of-way vacation. This contingent dedication will provide for a future right turn lane on Woodlawn.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle of notice of this vacation proceeding one time August 8, 2000, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of a street right-of-way, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, vacation of a portion of right-of-way described in the petition should be approved subject to the following condition:
1. The applicant shall dedicate, by separate instrument, contingent street right-of-way for a portion of the vacated right-of-way, as determined by the City of Wichita Engineering Department, sufficient to facilitate a corner-clip for a right turn lane.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval, subject to:

1. The applicant shall dedicate, by separate instrument, contingent street right-of-way for a portion of the vacated right-of-way, as determined by the City of Wichita Engineering Department, sufficient to facilitate a corner-clip for a right turn lane.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

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- 5/2. **VAC2000-00034** - Request to vacate plat text to permit the construction of a footbridge, generally located 1/4 mile east of Ridge and 1/4 mile north of 21<sup>st</sup> Street North, described as:

Reserve E, Lakeridge Addition to Wichita, Sedgwick County, Kansas.

LOCATION: ¼ mile east of Ridge Road and ¼ mile north of 21<sup>st</sup> Street North

REASON FOR REQUEST: Construction of a footbridge

CURRENT ZONING: "SF-6" Single-Family Residential

The applicants wish to amend the text on the face of the Lakeridge Addition Plat to allow the construction of a footbridge over an existing portion of a lake at the southernmost portion of the Reserve. Currently, no structures are permitted on Reserve E of this plat. The footbridge connects a pedestrian path system for the Lakeridge and Landing Homeowners Associations.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

4. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle of notice of this vacation proceeding one time August 8, 2000, which was at least 20 days prior to this public hearing.
5. That no private rights will be injured or endangered by the vacation and amendment of the existing plat text to allow structures to be built on Reserve E, and the public will suffer no loss or inconvenience thereby.
6. In justice to the petitioner(s), the prayer of the petition ought to be granted.

- B. Therefore, the vacation and amendment of the existing plat text to allow structures to be built on Reserve E described in the petition should be approved subject to the following condition:

3. Structures on Reserve E, Lakeridge Addition, shall be limited to one footbridge.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval, subject to

3. Structures on Reserve E, Lakeridge Addition, shall be limited to one footbridge.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

**ZONING:**

6. **Case No. CON2000-00030** - Arthur and Catherine R. Leger (owner) Horizon Telecommunications and Cricket Communications, Inc. (applicants); Ferris Consulting c/o Greg Ferris (Agent) request a Conditional Use permit for a commercial communication tower, approximately 1/2 mile south of 47<sup>th</sup> Street South and approximately 500 feet east of Rock Road.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a 190 foot high commercial communication tower for use by Cricket Communications, Inc. The proposed site is zoned "RR" Rural Residential. The Unified Zoning Code permits commercial communication towers in the "RR" Rural Residential district with a Conditional Use.

The proposed tower would be sited on a 10,000 square foot area located approximately ½ mile south of 47<sup>th</sup> Street South and approximately 500 feet east of Rock Road. Access to the site would be from Rock Road via a 20-foot wide access and utility easement. The applicant's site plan (attached) depicts a 100-foot by 100-foot compound. The site plan depicts an electrical transmission line running east to west approximately 75 feet south of the proposed tower. A hedgerow is

shown along the south property line that buffers the proposed tower from the adjoining property to the south. Since the site plan does not indicate the nature or location of all improvements to the site, planning staff recommends a condition of approval requiring final approval of a more detailed site plan by the Planning Director before the Conditional Use becomes effective.

The character of the surrounding area is rural, with the nearest residence being a farm-related single-family residence located approximately ¼ mile to the northwest. The property surrounding the site in all directions is zoned either "RR" Rural Residential or "SF-20" Single Family Residential and is used for agriculture.

Due to the site's location under the approach to McConnell Air Force Base, planning staff contacted the administration at McConnell, who indicated that the proposed site will not affect the Air Force's local operations; however, the site will affect the altitude of a circling maneuver used by smaller aircraft landing at the base during cross-country flights. Therefore, the staff at McConnell indicated that they would like to review the request further and provide additional feedback prior to the MAPC hearing. The staff at McConnell also indicated that the site should be reviewed by the Federal Aviation Administration. If required by the FAA, the tower would be constructed with a flashing red aircraft warning light. Also, the site is located within Area C of the Wichita-Sedgwick County Airport Hazard Zoning Map, which requires a permit exemption for structures (such as the proposed 190-foot high tower) that exceed 150 feet in height.

The applicant indicates that the proposed commercial communication tower is part of a planned initial build-out of a cellular phone system for Sedgwick and Butler counties by Cricket Communications, Inc (see attached "Horizon Site Plan"). The applicant's justification for the request (attached) indicates that this site is necessary for Cricket Communications, Inc. to provide cellular phone coverage for the McConnell Air Force Base area as well as the roads surrounding the base. At the request of planning staff, the applicant reviewed the alternatives of locating the proposed tower further to the north and west as well as utilizing an existing tower near Pawnee and Greenwich in conjunction with a shorter tower located further north and west. The applicant's response (attached) indicates that the alternatives proposed by planning staff would cause dropped calls as a user traveled from Derby or Rose Hill towards Wichita.

As proposed, the 190-foot high commercial communication tower is located 75 feet north of the adjoining property to the south. Such a location does not comply with the compatibility height standard of the Unified Zoning Code which requires a 190-foot high structure to be located no closer than 515 feet from property zoned "TF-3" or more restrictive. At the time this staff report was prepared, the Wichita City Council and Sedgwick County Commission were scheduled to consider a "Wireless Communication Master Plan" and associated amendments to the Unified Zoning Code on August 22 and 23, 2000. The proposed amendments include a revision to the compatibility height standard that would require a 190 foot structure to be located no closer than 190 feet from property zoned "TF-3" or more restrictive. Therefore, the application does not conform to either the current or the proposed compatibility height standard, and either a variance (under the current standard) or a zoning adjustment (under the proposed standard) would be required to be approved before a Conditional Use for the tower located as proposed can become effective.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR & SF-20"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR & SF-20"	Agriculture

**PUBLIC SERVICES:** No municipally supplied public services are required. The site has access to Rock Road, a four-lane arterial with 1997 traffic volumes of approximately 15,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Rock Road will increase to approximately 25,000 vehicles per day.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 75 feet from the north property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.
- B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan that complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The

site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.

- D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees around the enclosure.
- E. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- F. The monopole shall not exceed 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers.
- G. An Airport Hazard Zoning Permit for Area C shall be acquired by the applicant prior to commencing construction of the monopole.
- H. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
- I. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 190 feet.
- J. The site shall be developed in compliance with all federal, state, and local rules and regulations.
- K. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural, with the nearest residence being a farm-related single-family residence located approximately ¼ mile to the northwest. The property surrounding the site in all directions is zoned either "RR" Rural Residential or "SF-20" Single Family Residential and is used for agriculture.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential. Commercial communication towers are permitted with a Conditional Use in the "RR" Rural Residential district.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest property developed with non-agricultural uses is single-family residence on located approximately ¼ mile to the northwest. The only impact to be noted at the time this report was prepared is the visual impact of a tower.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.
- 5. Impact of the proposed development on community facilities: No impacts have been identified as municipally supplied services are not required.

**KNEBEL** "This is the first of three similar cases, all for commercial communication towers in the County. The applicant is seeking a Conditional Use to construct a 190-foot high commercial communication tower. The tower would be used by Cricket Communications. As you can see here, the property is zoned "RR" Rural Residential and a Conditional Use is required to construct a tower in the Rural Residential district.

The proposed site is 10,000 square feet, located 1/2 half mile south of 47<sup>th</sup> Street South and about 500 feet east of Rock Road. Access to the site would be from Rock Road. The site plan that you have before you doesn't indicate the nature or location of the improvements to the site, so staff is recommending that a revised site plan be submitted for approval by the Planning Director that indicates the nature of those improvements.

The surrounding area is rural in character. There are really no homes very near this site; it is nearly all agricultural. The nearest home is located about 1,000 feet north of the site; it is a farm-related home. The site is located under the approach to McConnell Air Force Base. The Planning staff has contacted McConnell and subsequently the applicant has had some conversations with them. You do have a letter, I believe, that was provided to you separate and apart from this agenda item, from McConnell, indicating their support for this application under certain conditions. The area is also located within the Airport Hazard Zoning Map Area 'C'; however, the conditions that McConnell is seeking for this particular tower would put it below a height that would trigger that requirement that is mentioned in the staff report.

As you can see in this slide, with the addition of the tower they do provide significantly more coverage along Rock Road and the north Derby area and even over on K-15, which is the purpose of the proposed tower. The Planning staff has asked that they look at some alternatives to constructing a single tower at this location, including constructing some shorter towers in multiple locations. The applicant's response to that is included with your packet. We think that their response is reasonable and that it is an acceptable solution to the problem.

The one issue dealing with this site is that the tower, as it is located, is located 75 feet north of the south property line. (Indicating) This is the property line and this is the tower location. Under the current Code, which is still in effect until mid September, the setback for compatibility would be 515 feet; under the new Code, it would be a 1 to 1 setback, or 190 feet, so the applicant will also need to acquire either a variance or I guess in this case, since the Code has now been adopted by the City and County, a zoning adjustment to allow that setback of less than 190 feet from the property line.

Planning staff is recommending that this case be approved. It has also been heard by the Derby Planning Commission, since it is in their area of influence. The front memo there details the changes that they are recommending to the recommended conditions of approval. I will go through them and kind of discuss them. As I mentioned, the zoning adjustment to allow a setback of only 75 feet would be required. They would have to comply with the other conditions of the Zoning Code. The site plan that I mentioned previously would need to be revised. Landscaping would need to be provided for screening of the ground-level equipment. The tower would need to be a monopole design, which would have an unobtrusive color and would be a non-glare finish.

According to what the Derby Planning Commission, the monopole should be no higher than 150 feet in height, which is a change from Condition F that was recommended by staff. That is a result of the discussions with McConnell. If you do read the letter from McConnell, it now says, which was not quite the indication that we had at the Derby Planning Commission, that they prefer the height to be reduced to 50 feet rather than 40 feet, which would take it down to 140 feet in height instead of 150. In talking with the staff with the Derby Planning Commission, they indicated that they would prefer the MAPC to approve it a 140 feet high. I guess we will let the applicant discuss that as well.

Another change that Derby made was that the height reduction would then only require a co-location opportunity for three providers rather than five. Both of those changes are acceptable to staff as well. On Item G, which is dealing with the Airport Hazard Zoning permit if the tower were to be 150 feet in height or less, that would not be applicable. Derby recommended that that be replaced with a requirement that a letter be provided by McConnell signing off on the application and providing their blessing to it. That has been provided to you and is at your desk now. I am available for questions."

**MARNELL** "Are there any questions of Scott? Can we hear from the applicant?"

**GREG FERRIS** "I represent Horizon Telecommunications, who is constructing this tower for Cricket Communications. I have three tower requests today, so I am going to give you a little overview right now and then I won't be redundant in the other two applications unless you have questions.

Cricket Communications is a new company that is coming into the Wichita, El Dorado, Derby and Newton areas. They are a little different than some of the other carriers that you had experience with and even ones that I have been up here representing. Cricket's philosophy is considerably different, and their technology is different. I have a RF engineer here if you have questions regarding their technology. Mr. Bob Giguere is here, the Regional Manager for Cricket Communications, and we have a representative here from Dyna Tech if you have some engineering questions. So we would be glad to answer any of those.

If you will look at, and it is hard to see in some of the documents that you get because they are not in color, but Cricket's objective is to have penetration into homes to be able to be used for any other service that is different from just your mobile phone where you drive down the road. They offer a \$30 rate that is for unlimited minutes. Their competition isn't just AT&T Wireless or Southwestern Bell Wireless, or some of the wireless providers, but their competition may be Southwestern Bell Phone Company, as well. You can imagine if you had a teenage child and wanted them to have a mobile phone, instead of buying a phone to hang on your wall and a mobile phone, for roughly \$30, what it would cost you for one of those phones, they will provide one with unlimited minutes and you won't have the headache of providing two phones. So it is a different marketing concept. It is a different usage concept, and as a result of that, they have a little different technology. So they need a little bit higher concentration of towers and they need a little better coverage than some of the other users might require, at least in their Phase I build out. So, Cricket is doing more towers and taller towers than even AT&T did in their Phase I build out.

Having said that, we concur with all of the findings of both the Derby Planning Commission and the staff, with one exception. If you will read your McConnell letter, it says 'Lucent/Horizon offered to reduce this tower height by 50 feet. I believe that is a typo. We did offer to do it at 40 feet. If you will read the end of that paragraph, McConnell reserves the right, we have to go through an FAA determination anyway. Whatever height the FAA allows us to go at will be the height that FAA, through their consideration and dialog with McConnell will allow us to build. The numbers that McConnell ran were at the 150 height, because they ran them while we were there, this letter was drafted by a gentleman who was in the planning field, and I am sure that once we clear that up that that won't be an issue. Regardless of that, it will be cleared up at the FAA level. So since one of your requirements is that the FAA has to approve this, we would just ask you to allow us to, as one of the conditions, to build a tower not to exceed 150 feet and to continue to leave in there the provision that the FAA must approve it, which we have to under our FAA license anyway.

So we have no problem with that. Other than that, we have no problem. If you concur with the findings of the Derby Planning Commission, we would ask that you remove Item G because the letter has been provided to you. I would be glad to answer any questions that you might have."



**MARNELL** "Are there any questions of Mr. Ferris? Thank you. Is there anyone to speak in favor of this item? Is there anyone to speak in opposition? If not, we will bring it back to the Commission for discussion."

**WARREN** "I talked to some of the members of the Derby Planning Commission and I saw no problem that they had. In fact, 150 foot as Greg has said, will ultimately be determined by the FAA. I don't think we need to. But I might comment that on 55<sup>th</sup> Street going west to Rock Road, it would be interesting for me to know how high those transmission towers are that I think lead into Boeing. I think they are higher than this. They are huge towers and they run about every 100 feet down through there. We have a rural water tower out there that I submit is probably higher than this, too. So, we have a lot of obstacles out there that McConnell has to deal with that are there already. This isn't going to, it looks to me like, have any effect on them."

**BARFIELD** "When you say higher, are you speaking of higher than the 150 feet or the 190 feet?"

**WARREN** "Well, I think we resolved this to 150 feet now. I think the applicant has agreed, hasn't he, to 150 feet? Let's ask the applicant if 150 feet is okay."

**FERRIS** "Yes, we are asking that you approve 150 feet."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is rural, with the nearest residence being a farm-related single-family residence located approximately ¼ mile to the northwest. The property surrounding the site in all directions is zoned either "RR" Rural Residential or "SF-20" Single Family Residential and is used for agriculture. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential. Commercial communication towers are permitted with a Conditional Use in the "RR" Rural Residential district. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest property developed with non-agricultural uses is single-family residence located approximately ¼ mile to the northwest. The only impact to be noted at the time this report was prepared is the visual impact of a tower. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower. Impact of the proposed development on community facilities: No impacts have been identified as municipally supplied services are not required.) I move that we recommend to the governing body that the item be approved, subject to the removal of Item 'G'.

**WARREN** moved.

**MARNELL** "Isn't that Item 'F' where you have adjusted the height from 190 to 150, changing the requirement to three other service providers?"

**KNEBEL** "I might recommend to the Commission that you just take the action of the Derby Planning Commission, with the exception of Item 'G'. That might be the simplest way to do it."

**WARREN** "Okay. I would amend my motion to do just that."

**AMENDED MOTION:** That the Planning Commission recommend to the governing body that the request be approved, subject to the following:

- A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 75 feet from the north property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.
- B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan that complying with the MAPC's Site Plan Guidelines for approval by the Planning

Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.

- D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees around the enclosure.
- E. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- F. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- G. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
- H. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 150 feet.
- I. The site shall be developed in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

**WARREN** moved, **CARRAHER** seconded the motion.

**MARNELL** "It has been moved and seconded, is there any further discussion?"

**LOPEZ** "I have a question. On Item 'G', are we stating construction can begin prior to acquiring this permit?"

**WARREN** "I am going to rely on those Federal Agencies that govern this to command this situation, rather than for us to get into that. These guys have all kinds of people they have to deal with in the final approvals."

**LOPEZ** "Let me ask staff."

**KNEBEL** "The Area 'C' of the Airport Hazard Zoning permit requires a permit for structures that exceed 150 foot in height. This structure would be at 150 feet, so it wouldn't be required. That is why that condition was removed by the Derby Planning Commission and replaced by this other one requiring the letter that you have received from McConnell."

**MICHAELIS** "By approving this as the motion is, are we giving the variance on the zoning as far as the setback as part of this also?"

**KROUT** "Under the zoning regulations, you can issue a variance to the zoning standards as part of the Conditional Use permit. But after the ordinance is passed, on September 15, then this qualifies for an Administrative Adjustment. Based on the fact that we have notified the neighbors and no one is here objecting to this case, I don't see any reason why we wouldn't support that."

**MICHAELIS** "Okay."

**OSBORNE-HOWES** "Did the motion say not to exceed 150 feet?"

**MARNELL** "It was to adopt the Derby Planning Commission's recommendations, and that was 150 feet."

**OSBORNE-HOWES** "The reason I asked is that the applicant asked for it not to exceed, just in case the FAA came back and said 140."

**KROUT** "I don't know exactly how this is worded, but usually when we say 150 feet, we mean up to 150 feet."

**KNEBEL** "It does say not to exceed."

**MARNELL** "Are there any further questions?"

**VOTE ON THE MOTION:** The motion carried with 11 votes in favor. There was no opposition.

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- 7. **Case No. CON2000-00031** - Melba Kohl (Owner); Horizon Telecommunication and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent) request a Conditional Use for a commercial Communications tower, described as:

A proposed lease area lying in and being a part of the Southwest Quarter (SW/4) of Section Seventeen (17), Township Twenty-six (26) South, Range Two (2) East, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said SW/4; Thence S 00 degrees 42'30" E, along the West line of said SW/4, a distance of 120.63 feet; Thence N 89 degrees 17'30"E a distance of 897.32 feet to the point of beginning; Thence continuing N 89 degrees 17'30"E a distance of 100.00 feet; Thence S 00 degrees 42'30"E a distance of 100.00 feet; Thence S 89 degrees 17'30"W a distance of 100.00 feet; Thence N00 degrees 42'30"W a distance of 100.00 feet to the point of beginning. Containing 10,000 square feet or 0.230 acres, more or less. Generally located approximately 1/2 mile south of K-254 and approximately 900 feet east of Rock Road.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a 190 foot high commercial communication tower for use by Cricket Communications, Inc. The proposed site is zoned "RR" Rural Residential. The Unified Zoning Code permits commercial communication towers in the "RR" Rural Residential district with a Conditional Use.

The proposed tower would be sited on a 10,000 square foot area located approximately ½ mile south of K-254 and approximately 900 feet east of Rock Road. Access to the site would be from Rock Road via a 12-foot wide access and utility easement. The applicant's site plan (attached) depicts a 100-foot by 100-foot compound. The site plan depicts an electrical transmission line running east to west approximately 100 feet north of the proposed tower. Since the site plan does not indicate the nature or location of all improvements to the site, planning staff recommends a condition of approval requiring final approval of a more detailed site plan by the Planning Director before the Conditional Use becomes effective.

The character of the surrounding area is rural, with the nearest residences being single-family residences on 5-acre lots in the Heritage Hill Estates Addition located approximately 1,000 feet to the northwest. The property to the north, south, and east of the site is zoned "RR" Rural Residential and is used for agriculture. The property west of the site is zoned "SF-20" Single-Family Residential and is partially developed with single-family residences on 5-acre lots with the remainder used for agriculture.

Due to the site's location under the approach to Jabara Airport, planning staff contacted the administration at Jabara, who indicated that the proposed site should be reviewed by the Federal Aviation Administration (FAA). If required by the FAA, the tower would need to be constructed with a flashing red aircraft warning light. Also, the site is located within Area C of the Wichita-Sedgwick County Airport Hazard Zoning Map, which requires a permit exemption for structures (such as the proposed 190-foot high tower) that exceed 150 feet in height.

The applicant indicates that the proposed commercial communication tower is part of a planned initial build-out of a cellular phone system for Sedgwick and Butler counties by Cricket Communications, Inc. (see attached "Horizon Site Plan"). The applicant's justification for the request (attached) indicates that this site is necessary for Cricket Communications, Inc. to provide cellular phone coverage for Bel Aire and Kechi as well as along Highway K-254 east from Wichita. At the request of planning staff, the applicant reviewed the alternatives of locating the proposed tower further to the south and west as well as utilizing an existing tower at Caster Excavating, 6609 N. Woodlawn, in conjunction with a shorter tower located further south and west. The applicant's response (attached) indicates that the alternatives proposed by planning staff do not provide adequate coverage along Highway K-254 as users travel from Wichita to El Dorado.

As proposed, the 190-foot high commercial communication tower is located 170 feet south of the adjoining property to the north. Such a location does not comply with the compatibility height standard of the Unified Zoning Code which requires a 190-foot high structure to be located no closer than 515 feet from property zoned "TF-3" or more restrictive. At the time this staff report was prepared, the Wichita City Council and Sedgwick County Commission were scheduled to consider a "Wireless Communication Master Plan" and associated amendments to the Unified Zoning Code on August 22 and 23, 2000. The proposed amendments include a revision to the compatibility height standard that would require a 190 foot structure to be located no closer than 190 feet from property zoned "TF-3" or more restrictive. Therefore, the application does not conform to either the current or the proposed compatibility height standard, and either a variance (under the current standard) or a zoning adjustment (under the proposed standard) would be required to be approved before a Conditional Use for the tower located as proposed can become effective.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"SF-20"	Single-Family, Agriculture

**PUBLIC SERVICES:** No municipally supplied public services are required. The site has access to Rock Road, a two-lane paved section line road with 1997 traffic volumes of approximately 550 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Rock Road will increase to approximately 3,900 vehicles per day.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 170 feet from the north property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.
- B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees around the enclosure.
- E. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- F. The monopole shall not exceed 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers.
- G. An Airport Hazard Zoning Permit for Area C shall be acquired by the applicant prior to commencing construction of the monopole.
- H. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
- I. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 190 feet.
- J. The site shall be developed in compliance with all federal, state, and local rules and regulations.
- K. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. **The zoning, uses and character of the neighborhood:** The character of the surrounding area is rural, with the nearest residences being single-family residences on 5 acre lots in the Heritage Hill Estates Addition located approximately 1,000 feet to the northwest. The property to the north, south, and east of the site is zoned "RR" Rural Residential and is used for agriculture. The property west of the site is zoned "SF-20" Single-Family Residential and is partially developed with single-family residences on 5-acre lots with the remainder used for agriculture.
- 2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned "RR" Rural Residential. Commercial communication towers are permitted with a Conditional Use in the "RR" Rural Residential district.
- 3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The site is currently undeveloped. The closest properties developed with non-agricultural uses are single-family residences on 5-acre lots located approximately 1,000 feet to the northwest. The only impact to be noted at the time this report was prepared is the visual impact of a tower.
- 4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.
- 5. **Impact of the proposed development on community facilities:** No impacts have been identified as municipally supplied services are not required.

**KNEBEL** "Much of the presentation of this is the same as the last case. Unless anybody wants to, I will just go through it and point out the things that are different about this particular site and skim over the rest of it. This particular site is located, again, along Rock Road on the north side of Wichita between K-254 and 53<sup>rd</sup> Street North. It is located east of Rock, approximately 900 feet. The area, again, is primarily rural, although there is a large lot subdivision, located to the northwest of this, approximately 1,000 feet, containing homes on five-acre lots.

Again, this tower is located in the vicinity of an airport and is also located in Area 'C'. The airport staff is recommending that we defer to the FAA for the review of this particular site. (Indicating) This is what the service would look like. The lighter colors are no service. The applicant looked at some other alternatives as far as providing service with shorter towers and the response that the applicant provided regarding this solution is acceptable to staff. In this case, the staff report mentions that the site is located within 170 feet of the north property line, which would be 20 feet too close. The applicant has offered to move the site within the 10,000 square foot compound, 20 feet to the south, to this location here. They have already provided a site plan that shows that and that would eliminate the need to receive a zoning adjustment, which is the first recommended condition of approval.

This case was within the Bel Aire Planning Commission's area of influence. They have heard this case and have recommended a couple of changes. One of those is what I mentioned before regarding the variance or the zoning adjustment; that the condition be worded such that that only be required as a condition of the Conditional Use if the site is not constructed or the site plan is not provided to show the tower within 190 feet, rather than 170 feet. Conditions of Approval will also require a site plan showing the improvements to the site, a landscape plan, and the fact that the tower be a monopole, be 190 feet in height.

Another change that was made at the Bel Aire Planning Commission meeting which is acceptable to staff is that the communication tower be designed to handle four carriers instead of the five that are recommended. Then again, this would be required, since it exceeds 150 feet, to receive an Airport Hazard Zoning permit. I am available for questions."

**MARNELL** "Scott, did I understand that you would remove Item A from those recommendations, then?"

**KNEBEL** "I think it is reasonable to remove Item A. The site plan I received just before the meeting does show the tower at 190 feet from the north property line."

**WARREN** "It has been our position all along to try to put as many as we can on a tower. I wonder why they reduced it from 5 to 4?"

**KNEBEL** "That was at the request of the applicant. The design of these towers makes it pretty difficult to acquire a tower that accommodates five carriers. The Planning staff went along with that primarily because there is a provision in the Code that requires the owner of the tower to allow it to be rebuilt if in the future more carriers need to use that site than the tower is capable of supporting. So we still have the capability, at the last person's expense, to rebuild the tower to a 5 carrier tower in the future."

**WARREN** "Now as I understand it, the 190-foot height, subject to FAA approval would still be in your recommendations?"

**KNEBEL** "That is correct."

**WARREN** "Okay."

**OSBORNE-HOWES** "These are talked about as cellular phone towers. Can these towers also be used for like wireless Internet and such?"

**KNEBEL** "That is correct. They could be used for any type of wireless antennas."

**MARNELL** "Thank you, Scott. Does the applicant have anything to add to this?"

**GREG FERRIS** "Thank you, Mr. Chair and members of the Planning Commission. I represent Horizon Telecommunications. To answer your question, Mr. Warren, we will be trying to acquire a 5-carrier tower. It is in our interest to put as many on there as we can because we will be the tower owner and our lessee is Cricket Communications at the top, and it is our goal to lease out as much as possible.

Ms. Osborne-Howes, to address your concern, when we say four carriers, that generally is the four top-hat configurations. The other, the wireless Internet, the paging companies, those kinds of things, they use significantly lighter-type antennas and you can use those as well. So it shouldn't be an issue at all. We would ask you to concur with the findings of the Bel-Aire Planning Commission and I believe it would be appropriate to remove Item A. If you don't see fit, if you will just adopt those as well, what the Bel-Aire Planning Commission recommended. We are comfortable either way. I would be glad to answer any questions."

**WARREN** "So you are comfortable with just four instead of five as has been recommended?"

**FERRIS** "Yes. We are asking that we be allowed to put a tower at four if we can't find a five-carrier tower. They take a little longer to order sometimes. They are not a standard issuance tower and so we will be looking to try to put a five-

carrier tower up, but in the event we can't, we don't want to be bound by a condition that says we have to have a five-carrier versus a four-carrier."

**MARNELL** "Are there any further questions?"

**KROUT** "Greg, do you happen to know what the difference is in the base diameter of a three-carrier tower versus a five-carrier tower?"

**FERRIS** "A three-carrier versus a five-carrier? Bob, do you know the answer to that?"

**BOB GIGUIERE** "I am the Regional Director for Cricket Communications. There is no difference in the base diameter of the tower. It is in the thickness of the wall of the tower. The thickness of that structure.

We came in and met with some of you when we were first making the proposal to come to town. On these structures, the majority of us wireless providers go in for 12 paneled antennas. We try to structure these towers so that they will handle four antennas per sector, three sectors. Then we usually go for a microwave for interconnect. So with all of that loading on these towers, we end up putting two antennas per sector and sometimes we will go to three. When we pick up a second and third carrier as we put on more customer base. But hardly ever do you see one of these guys that have jumped out and fully loaded the top-hat configuration. So, when you get one of these towers and you design it for the wind-loading for the area, for the ice configuration that could build up on the tower during that time of the year, and then 12 antennas per carrier, you make a pretty heavy load up there. Then when we don't use that load, it does still leave some space for the two-way, the paging services, and things like that. So the structures are usually about 200 percent overrated, so they will be pretty strong."

**WARREN** "Let me get this clear again. You are asking, then, that we limit this to four?"

**FERRIS** "Yes, we are asking you to concur with the conditions from the Bel Aire Planning Commission."

**MARNELL** "Thank you Mr. Ferris. Is there anyone here to speak in opposition? Any proponents? I will bring it back to the Commission. Is there any further discussion?"

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is rural, with the nearest residences being single-family residences on 5 acre lots in the Heritage Hill Estates Addition located approximately 1,000 feet to the northwest. The property to the north, south, and east of the site is zoned "RR" Rural Residential and is used for agriculture. The property west of the site is zoned "SF-20" Single-Family Residential and is partially developed with single-family residences on 5-acre lots with the remainder used for agriculture. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential. Commercial communication towers are permitted with a Conditional Use in the "RR" Rural Residential district. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest properties developed with non-agricultural uses are single-family residences on 5-acre lots located approximately 1,000 feet to the northwest. The only impact to be noted at the time this report was prepared is the visual impact of a tower. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower. Impact of the proposed development on community facilities: No impacts have been identified as municipally supplied services are not required.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- C. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees around the enclosure.

- D. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- E. The monopole shall not exceed 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- F. An Airport Hazard Zoning Permit for Area C shall be acquired by the applicant prior to commencing construction of the monopole.
- G. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
- H. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 190 feet.
- I. The site shall be developed in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

**LOPEZ** moved, **HENTZEN** seconded the motion, and it carried unanimously (11-0).

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8. **Case No. CON2000-00032** - Gary and Karen Woods (Owners); Horizon Telecommunications and Cricket Communications Inc. (applicants); Ferris Consulting c/o Greg Ferris (Agent) requests a Conditional Use for a commercial communication tower, described as:

A proposed lease area lying in and being part of the West Half (W/2) of the Northeast Quarter (NE/4) of Section Twenty-one (21), Township Twenty-eight (28) South, Range One (1) West, of the Sixth Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said W/2 NE/4; Thence N 88 degrees 30'08"E, along the North line of said W/2 NE/4, a distance of 1200.87 feet; Thence S01degrees 29'52"E a distance of 145.20 feet to the point of beginning; The N 88 degrees 30'08"E, parallel with said North line, a distance of 100.00 feet; Thence S01degrees 29'52"E a distance of 100.00 feet; Thence S88degrees 30'08"W, parallel with said North line, a distance of 100.00 feet; Thence N 01 degrees 29'52"W a distance of 100.00 feet to the point of beginning. Containing 10,000 square feet or 0.230 acres, more or less. Located approximately 145 feet south of 47<sup>th</sup> Street South and approximately 1/4 mile west of Ridge Road.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a 190 foot high commercial communication tower for use by Cricket Communications, Inc. The proposed site is zoned "SF-20" Single Family Residential. The Unified Zoning Code permits commercial communication towers in the "SF-20" Single Family Residential district with a Conditional Use.

The proposed tower would be sited on a 10,000 square foot area located approximately 145 feet south of 47<sup>th</sup> Street South and approximately ¼ mile west of Ridge Road. Access to the site would be from 47<sup>th</sup> Street South via a 20-foot wide access and utility easement. The applicant's site plan (attached) depicts a 100-foot by 100-foot compound. The site plan depicts a hedgerow along the north and east property lines of the proposed site. Since the site plan does not indicate the nature or location of all improvements to the site, planning staff recommends a condition of approval requiring final approval of a more detailed site plan by the Planning Director before the Conditional Use becomes effective.

The character of the surrounding area is rural, with no residences within ¼ mile of the site. The property surrounding the site is zoned "SF-20" Single Family Residential and is used for agriculture.

Due to the site's location under the approach to Mid-Continent Airport, planning staff contacted the administration at Mid-Continent, who indicated that the proposed site could impact the GPS instrument approach to Runway 32 and should be reviewed by the Federal Aviation Administration (FAA). If required by the FAA, the tower would need to be constructed with a flashing red aircraft warning light. Also, the site is located within Area C of the Wichita-Sedgwick County Airport Hazard Zoning Map, which requires a permit exemption for structures (such as the proposed 190-foot high tower) that exceed 150 feet in height. However, the proposed tower appears to lie beneath the ceiling established on the more detailed topographic maps.

The applicant indicates that the proposed commercial communication tower is part of a planned initial build-out of a cellular phone system for Sedgwick and Butler counties by Cricket Communications, Inc. (see attached "Horizon Site Plan"). The applicant's justification for the request (attached) indicates that this site is necessary for Cricket Communications, Inc. to provide cellular phone coverage to the heavily-traveled area south of Mid-Continent Airport in the Highway K-42 corridor. At the request of planning staff, the applicant reviewed the alternatives of locating the proposed tower further to the south and east as well as utilizing two shorter towers, with one located further south and east and the other located further north and west in areas where industrial zoning exists. The applicant's response (attached) indicates that the first alternative proposed by planning staff does not provide adequate coverage to the Highway K-42 corridor, and the second alternative would require two 150 foot high towers rather than a single 190 foot high tower.

As proposed, the 190-foot high commercial communication tower is located 70 feet west of the adjoining property to the east. Such a location does not comply with the compatibility height standard of the Unified Zoning Code which requires a 190-foot high structure to be located no closer than 515 feet from property zoned "TF-3" or more restrictive. At the time this staff report was prepared, the Wichita City Council and Sedgwick County Commission were scheduled to consider a "Wireless Communication Master Plan" and associated amendments to the Unified Zoning Code on August 22 and 23, 2000. The proposed amendments include a revision to the compatibility height standard that would require a 190 foot structure to be located no closer than 190 feet from property zoned "TF-3" or more restrictive. Therefore, the application does not conform to either the current or the proposed compatibility height standard, and either a variance (under the current standard) or a zoning adjustment (under the proposed standard) would be required to be approved before a Conditional Use for the tower located as proposed can become effective.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"	Agriculture
SOUTH:	"SF-20"	Agriculture
EAST:	"SF-20"	Agriculture
WEST:	"SF-20"	Agriculture

**PUBLIC SERVICES:** No municipally supplied public services are required. The site has access to 47<sup>th</sup> Street South, an unpaved section line road with no traffic volumes available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 70 feet from the east property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.
- B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees to be planted and maintained around the enclosure.
- E. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- F. The monopole shall not exceed 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- G. An Airport Hazard Zoning Permit for Area C shall be acquired by the applicant prior to commencing construction of the monopole.
- H. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
- I. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 190 feet.
- J. The site shall be developed in compliance with all federal, state, and local rules and regulations.
- K. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural, with the no residences within ¼ mile of the site. The property surrounding the site is zoned "SF-20" Single Family Residential and is used for agriculture.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single Family Residential. Commercial communication towers are permitted with a Conditional Use in the "SF-20" Single Family Residential district.



3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest properties developed with non-agricultural uses are located more than ¼ mile away. The only impact to be noted at the time this report was prepared is the visual impact of a tower.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.
5. Impact of the proposed development on community facilities: No impacts have been identified, as municipally supplied services are not required.

**KNEBEL** "This is the third tower on today's agenda, again located along 47<sup>th</sup> Street South, this time on the west side of Wichita, west of Ridge Road. It is located less than 200 feet south of 47<sup>th</sup> Street and about a quarter of a mile west of Ridge, on property that is zoned 'SF-20' Single-Family residential. Despite the zoning classification, it is primarily a rural area again. The tower is located within the compatibility height standard and would require a zoning adjustment to be approved. We are recommending a revised site plan, a landscape plan, still a monopole tower, 190 feet at four carriers and again, this is in the approach to Mid-Continent and would require an Airport Hazard Zoning permit. I am available for questions."

**MARNELL** "Are there any questions of Scott? Thanks, Scott. Applicant."

**GREG FERRIS** "Mr. Chair, members of the Planning Commission, I represent Horizon Telecommunications and Cricket Communications. We would concur with all of the findings and conditions that staff is recommending and would ask you to approve with one small exception, and that would be on Condition G, to add the words 'if required' at the end of that. We are trying to change a couple of configurations of some other towers in co-locations to where we could build this tower a little bit shorter. If we are able to do that and construct only a 150-foot tower, we wouldn't want to be required, since 150 foot is the limitation.

Contrary to what you might read in the newspaper and what everybody else says, we always try to build as short of a tower as we possibly can. But in the event that the RF is not allowed to do that, we will go ahead and get our hazard permit. But in the event we are able to reduce the height to 150, then we would ask that we not be required to get that permit since it isn't required. So if you would just add if required at the end of Condition G, we would be satisfied."

**MARNELL** "Are there any questions of the applicant? Thank you, Mr. Ferris. Is there anyone in the audience to be heard either for or against this application? Not seeing any, we will bring it back to the Commission. Is there any discussion?"

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is rural, with the no residences within ¼ mile of the site. The property surrounding the site is zoned "SF-20" Single Family Residential and is used for agriculture. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single Family Residential. Commercial communication towers are permitted with a Conditional Use in the "SF-20" Single Family Residential district. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest properties developed with non-agricultural uses are located more than ¼ mile away. The only impact to be noted at the time this report was prepared is the visual impact of a tower. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower. Impact of the proposed development on community facilities: No impacts have been identified as municipally supplied services are not required.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 70 feet from the east property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.
- B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees to be planted and maintained around the enclosure.
- E. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- F. The monopole shall not exceed 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- G. If required, an Airport Hazard Zoning Permit for Area C shall be acquired by the applicant prior to commencing construction of the monopole.
- H. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
- I. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 190 feet.
- J. The site shall be developed in compliance with all federal, state, and local rules and regulations.
- K. Any violation of the conditions of approval shall render the Conditional Use null and void.

**CARRAHER** moved, **HENTZEN** seconded the motion, and it carried unanimously (11-0).

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9. **Case No. CON2000-00032** - Gary and Karen Woods (Owners); Horizon Telecommunication and Cricket Communications Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent) request a Conditional Use for a commercial communication tower, described as:

LOT 11, BLOCK A, WOODLAND HILLS ADDITION, SEDGWICK COUNTY KS, generally located 1/2 mile west of 151<sup>st</sup> Street West on the north side of Central Avenue.

**LISA VAN DE WATER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use Permit for the construction of an accessory apartment in an existing 42 feet by 80 feet shop/utility metal building on 5 acres of property zoned "RR" Rural Residential.

The applicant has submitted a site plan of the 5-acre lot that shows the shop/utility building approximately 240 feet north of the property line on Central Avenue and approximately central to the property. There is extensive vegetation that screens both the house and the utility building from Central Avenue. The utility shop is also screened from the property to the east by vegetation and from property to the north by the primary residence. The apartment will occupy a 25-foot by 18-foot portion of the larger utility building. The applicant has indicated that a member of his immediate family while attending college will use the apartment. He has also indicated that in the long-term the apartment will likely be used as an art studio.

Accessory apartments are permitted by Conditional Use Permit in all residential zoning districts within Sedgwick County, subject to the following standards:

- 1. A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit and may be within the main building, within an accessory building or constructed as an accessory building.
- 2. The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood.
- 3. The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.
- 4. The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

Staff feels that this Conditional Use request meets the intent of these standards.

The Health Department has reviewed the request for an additional tie-in to the existing lagoon system and has determined that the existing system is adequate for the additional usage.

The property is surrounded by single-family residential and agricultural uses, all of which are zoned "RR" Rural Residential.

The Goddard Planning Commission heard this request on August 17, 2000 and voted unanimously to recommend approval.

**CASE HISTORY:** The subject property was platted as part of the Woodland Hills Addition and approved by the MAPC on February 23, 1995.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" – Single-family residence

SOUTH: "RR" – Agricultural uses

EAST: "RR" – Single-family residence, but approved for stable or riding academy

WEST: "RR" – Single-family residence

**PUBLIC SERVICES:** The site is serviced by an on-site lagoon system and by Rural Water District #4.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the 1999 Comprehensive Plan Update designates this area as appropriate for rural uses and is within the 30-year Urban Service Area.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request for a Conditional Use Permit to allow one accessory apartment be APPROVED, subject to the following conditions:

1. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
2. The site shall be developed in general conformance with the approved site plan.
3. Any violation of these conditions shall render this Conditional Use Permit null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding areas are developed with agricultural uses and single-family residences. This accessory apartment is a customary accessory use associated with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The Code permits an accessory apartment in single-family residential districts provided the site meets specific site and building standards. The applicant and the site appear to meet those standards.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The use of this site for an accessory apartment should not have a detrimental impact on the area. The apartment will be located in an approved agricultural building, which is a standard in the rural areas of the county.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Zoning Code anticipated this type of use and makes specific provisions for it. The site appears to comply with all the provisions outlined in the Code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines.
5. Impact of the proposed development on community facilities: The applicant's request should have a minimal impact on community facilities.

**VAN DE WATER** "This is an application to allow an accessory apartment on five acres of property which is zoned Rural Residential. The property is located approximately half a mile west of 151<sup>st</sup> Street and on the north side of Central. They want to put the accessory apartment in an existing 42 x 80 utility building. (Indicating) This is the metal building that the applicant wants to make a small portion into an apartment. The apartment will be used by one of the family members of the applicant while she is going to college.

The property is surrounded on all sides by Rural Residentially zoned property and to the north, west and east are large lot residential homes and to the south, all of the property is agricultural. This property is very heavily vegetated, especially in the front as well as the central part of the property. Essentially, you can't really see this building except for a small corner of it from the front of the property.

This is in the area of influence of the City Goddard. The Goddard Planning Commission did hear this case on August 17 and voted unanimously to recommend approval of this request. Staff is in support of the request. There are findings on Page 3 and 4 of your staff report, and I will answer any questions that you have."

**MARNELL** "Are there any questions of Lisa?"

**VAN DE WATER** "The applicant is in full support of the recommendation, but is here for questions if you have any of him."

**MARNELL** "We recognize that the applicant is here. Does the applicant want to speak? Is there anybody else who wants to speak besides the applicant? I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding areas are developed with agricultural uses and single-family residences. This accessory apartment is a customary accessory use associated with single-family residences. The suitability of the subject property for the uses to which it has been restricted: The Code permits an accessory apartment in single-family residential districts provided the site meets specific site and building standards. The applicant and the site appear to meet those standards. Extent to which removal of the restrictions will detrimentally affect nearby property: The use of this site for an accessory apartment should not have a detrimental impact on the area. The apartment will be located in an approved agricultural building, which a standard in the rural areas of the county. Conformance of the requested change to adopted or recognized Plans/Policies: The Zoning Code anticipated this type of use and makes specific provisions for it. The site appears to comply with all the provisions outlined in the Code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines. Impact of the proposed development on community facilities: The applicant's request should have a minimal impact on community facilities.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

**MICHAELIS** moved, **HENTZEN** seconded the motion, and it carried unanimously (11-0).

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10. **Case No. CON2000-00034** - William D. and Rita H. Gorges, Co-Trustees of William D. Gorges Living Trust and Co-Trustees of the Rita H. Gorges Living Trust (Owners); Anthony M. Strunk (agent) request a Conditional Use to allow agricultural sales and service on property described as:

Beginning at the S.E. Corner of the N 1/2 of the NE 1/4 of Sec. 32, TWP. 28-S, R-2-W of the 6th P.M., Sedgwick County, Kansas; thence N 00 degrees E, along the east line of said NE 1/4, 448.31 feet to a point 873.46 feet south of the N.E. Corner of said NE1/4; thence S 89 degrees 55 feet 12 inches W, parallel with the north line of said NE 1/4, 589.67 feet; thence S 00 degrees W, 447.57 feet to the south line of the N 1/2 of said NE 1/4; thence N 89 degrees 59 feet 31 inches E, along the south line of the N1/2 of said NE1/4, 589.67 feet to the place of beginning. Generally located approximately 900 feet south of 63<sup>rd</sup> Street South on the west side of 183<sup>rd</sup> Street West.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicants are requesting a Conditional Use for agricultural sales and service in order to construct a free-standing office for the dairy trucking business already in operation from their farm and home. Currently, drivers come to the office each day to check in and depart for their routes. There are 3 employees in addition to the owners and other family members. One milk tanker is kept on the site as a backup in case one of the driver's trucks has mechanical problems. Otherwise, the trucks are on the road to and from their destination. The applicant indicated that the trucks are on their delivery routes longer than they are at headquarters. At the time of the site visit, there was one tractor-trailer, a milk tanker truck, plus a number of vehicles, farm equipment, and some old trailers located on the property. Most of the vehicles did not appear to be related to the dairy trucking business. Apparently, the presence of these vehicles prompted a complaint to the Office of Code Enforcement, which identified the existing agricultural sales and service business in operation on this site.

The site is 6.7 acres in size, and has an existing shed, two outbuildings, the home and carport. The proposed office is 900 square feet in size and is located to the northwest of the existing shed.

The surrounding area is zoned "RR" Rural Residential. The property immediately to the north of the operation is a residence. There is no landscaping or screening between the two adjoining properties. There is one more residence to the north. The Gorges own almost all the remaining land in the quarter-section. The land to the east is in agricultural use.

South about ¼ mile is another "Conditional Use" for agricultural sales and service. This "Conditional Use" (CU-398) is for sale of agricultural utility trailers, and was approved June 13, 1996. A small manufactured home park that existed prior to zoning is located across 183<sup>rd</sup> Street West from the CU-398.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR" Rural Residential	Two residences
EAST:	"RR" Rural Residential	Agriculture
SOUTH:	"RR" Rural Residential	Agriculture, agricultural sales and service
WEST:	"RR" Rural Residential	Agriculture

**PUBLIC SERVICES:** The site has access from 63<sup>rd</sup> Street South, a sand county road. K-42 is located about 2/3 mile south of the application area. No traffic counts are available. The area is served by a rural water district. The applicant is operating with a lagoon sewer system.

**CONFORMANCE TO PLANS/POLICIES:** The "Sedgwick County Development Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as "agricultural." It is approximately four miles south of the 2030 Urban Service Area. The "RR" Rural Residential district allows agricultural sales and service as a "Conditional Use" to enhance the viability of agricultural areas.

**RECOMMENDATION:** Based on the information available prior to the public hearing, Staff recommends the application be APPROVED, subject to platting within one year and subject to the following conditions:

1. The "Conditional Use" shall be limited to the dairy transport business.
2. The use of the property for the dairy transport business shall proceed and be maintained in general conformance with the Site Plan attached to and made part of the "Conditional Use."
3. No permits for non-residential structures shall be issued prior to final plat approval and prior to County Health Department approval for waste disposal.
4. No more than three tanker trucks shall be parked on the site at any time. No washing of the trucks is permitted on the site.
5. All commercial vehicles and trailers shall be parked on the designated parking area that is surfaced with asphalt, crushed rock or gravel.
6. A landscape buffer consisting of a solid row of evergreen trees that are 5 to 6 feet in height at time of planting and spaced no more than 15 feet apart shall be provided on the eastern 175 feet of the northern property line to screen the "Conditional Use" from the property to the north.
7. Any violation of the conditions of approval shall render the "Conditional Use" permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is characterized by agricultural operations with the exception of the residents to the north and a small manufactured home park about ½ mile southwest of the application area. All the land is zoned "RR" Rural Residential.
2. The suitability of the subject property for the uses to which it has been restricted: "RR" zoning is the district where agricultural support uses are expected to be located. The property is already in use as a dairy transport business, but has been operated as a home occupation with the office located in the home.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The "Conditional Use" would allow construction of the freestanding office. It also permits parking of tanker trucks on the property. The possible detrimental impact is to the neighbors to the north located approximately 100 and 300 feet to the north. The impact would be minimized by the limited time the trucks are on the property, and restricting parking to the surfaced areas only as shown on the Site Plan in order to keep the trucks farther from the property line and by landscape buffering.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested "Conditional Use" is in conformance with allowing agriculturally-based activities to be located in the "RR" Rural Residential areas.
5. Impact of the proposed development on community facilities: The projected impact on community facilities is minimal due to the low volume of traffic generated by the use and negligible use of water.

**GOLTRY** "This is a request for a Conditional Use to allow agricultural sales and services in a pretty remote location, on 63<sup>rd</sup> Street South on the west side of 183<sup>rd</sup> Street West. About four miles out beyond the urbanized area for the 2030 boundary. This site has been used historically as a dairying operation but now it is being used as a dairy transport operation. They currently have a small operation, which is family based plus three employees. Mostly they have the trucks coming in to get their dispatch orders and leave and come back.

I do have one thing I want to point out that is apparently in error in the staff report. They were cited by the County for the presence of a large number of old vehicles on the property, but they have not been cited for having a business in operation. Instead, what they would like to do is construct an office structure separate from the existing house. It has been operated to this point as a rural home occupation. Since they want to construct this free-standing office structure, that is why they are coming in for this Conditional Use for Ag sales and service. The site plan shows houses to the south. They already have an existing shed and they are going to be building the new building right here in the crosshatched area (indicating). There are some residences to the north. This is less than 1 mile from K-42.

We have recommendations for the Conditional Use that limit the size and scope of this to be compatible with the rural nature and the agricultural nature of the surrounding area. There are some other existing ag sales and service operations that are about half a mile to the south and they sell utility trailers. This is somewhat similar to that use. I believe that the applicant's agent is here. He is in agreement with most of the staff comments, with the exception of the request for platting. Findings are listed on Pages 3 and 4, and I will stand for questions."

**MARNELL** "Are there any questions of Donna? Can we hear from the applicant, please?"

**TONY STRUNK** "Good afternoon. I am the agent for William and Rita Gorges. My only issue here is that we had a meeting with the staff on July 28, it was on a Friday afternoon, and we discussed about the platting. We decided at that meeting that because of the simplicity of the Conditional Use that we wouldn't plat. I went ahead and passed that on to the applicant, the Gorges, that we wouldn't necessarily have to plat. So I take opposition to that, and I would ask that the Commission approve this without the platting. Are there any questions?"

**HENTZEN** "Tony, do you know who lives in that house north of the property?"

**STRUNK** "It is their son-in-law, Kevin Cortal."

**HENTZEN** "Okay."

**MARNELL** "Are there any other questions?"

**MCKAY** "The only question I have is on the platting."

**GOLTRY** "Marvin, do you want to respond to that?"

**KROUT** "Why don't you, Donna? I wasn't involved in that Friday afternoon discussion."

**GOLTRY** "It is pretty much a standard recommendation that the County requires platting for commercial structures. So we have included it in the staff recommendation."

**MICHAELIS** "Did you tell them that they didn't need to at that time?"

**GOLTRY** "We talked about it at Development Review. I advised him that he could bring it forth and that MAPC would be the proper place to discuss whether it would be needed."

**MILLER** "There was an earlier request, if you remember, out by Colwich, towards Hutchinson where they did transfer, and we advised him that we didn't ask that particular person to plat at that time and that we would need to check on things and see how things looked. I think that is probably where the confusion came in."

**KROUT** "Donna or Dale, did you have any discussion with Glen Wiltse about whether or not the office building that is shown as part of the plan can be built? I am thinking that probably that will not be classified as an ag exempt use. So, even if the Planning Commission does not include it as a requirement that when and if they build that office building, they will be required to plat at that time."

**MILLER** "Glen was present at the discussion."

**HENTZEN** "This is an office building for milk hauling, that is these people haul milk from the dairies around this county to a central point to be distributed to the processors, and to say that that is not related to agriculture, seems to me to be absurd. I don't know what it is if it is not agriculture. And to impose some funny regulations because they want to do that at that location, I don't see any reason why this should not be allowed and that the re-platting requirement not be demanded. We are not talking about a zoning change, we are simply talking about can they carry on an agricultural use on that quarter section."

**KROUT** "Commissioners, I think you can remove the requirement for platting. I guess I just wanted to let you and the applicant know that even though this is related to agriculture, the reason they are here with a Conditional Use is that this

is not a farming use. It is a commercial use that is part of agricultural-like activity. We think it is important and necessary and it belongs in areas like this. We are very supportive of cases like this. I am just saying that there is a good chance that if you build the office building as a part of the use that County Building Inspection will require you to plat the property before getting a building permit. That is something you can take up with them administratively if the Planning Commission removes it as a requirement at this point."

**JOHNSON** "Marvin, I have another thought on this. We are talking about a 900 square foot structure. Isn't there something in the Code where you can add 20% to a non-conforming use without doing anything but just getting a permit. No platting required.

**KROUT** "I know that is true for a residential expansion on an unplatted lot. I don't know if it is true for non-residential, but again, if you take out the requirement of the present Conditional Use, then whatever the rules are, you can't exempt him from doing something that Glen Wiltse deemed necessary."

**JOHNSON** "I understand that, but I just thought that in the code, even in a non-conforming use, whatever they are doing....I know some areas in the City of Wichita that are not platted."

**KROUT** "Commercial expansion?"

**JOHNSON** "Yeah."

**KROUT** "Yeah, there probably are some."

**JOHNSON** "Where you can add 20%, and once you reach that, then the platting kicks in."

**KROUT** "I think it is 30%."

**JOHNSON** "That could be."

**MARNELL** "I would assume that we could go ahead and pass this and take that requirement out as far as our requirement, and then they are still under the same obligations beyond here. But we haven't added an extra one that they might not have to do."

**KROUT** "It is 30%."

**MARNELL** "Is there anyone here to speak in opposition to this matter? Not seeing any, we will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The area is characterized by agricultural operations with the exception of the residents to the north and a small manufactured home park about ½ mile southwest of the application area. All the land is zoned "RR" Rural Residential. The suitability of the subject property for the uses to which it has been restricted: "RR" zoning is the district where agricultural support uses are expected to be located. The property is already in use as a dairy transport business, but has been operated as a home occupation with the office located in the home. Extent to which removal of the restrictions will detrimentally affect nearby property: The "Conditional Use" would allow construction of the freestanding office. It also permits parking of tanker trucks on the property. The possible detrimental impact is to the neighbors to the north located approximately 100 and 300 feet to the north. The impact would be minimized by the limited time the trucks are on the property, and restricting parking to the surfaced areas only as shown on the Site Plan in order to keep the trucks farther from the property line and by landscape buffering. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested "Conditional Use" is in conformance with allowing agriculturally based activities to be located in the "RR" Rural Residential areas. Impact of the proposed development on community facilities: The projected impact on community facilities is minimal due to the low volume of traffic generated by the use and negligible use of water.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The "Conditional Use" shall be limited to the dairy transport business.
2. The use of the property for the dairy transport business shall proceed and be maintained in general conformance with the Site Plan attached to and made part of the "Conditional Use."
3. No permits for non-residential structures shall be issued and prior to County Health Department approval for waste disposal.

4. No more than three tanker trucks shall be parked on the site at any time. No washing of the trucks is permitted on the site.
5. All commercial vehicles and trailers shall be parked on the designated parking area that is surfaced with asphalt, crushed rock or gravel.
6. A landscape buffer consisting of a solid row of evergreen trees that are 5 to 6 feet in height at time of planting and spaced no more than 15 feet apart shall be provided on the eastern 175 feet of the northern property line to screen the "Conditional Use" from the property to the north.
7. Any violation of the conditions of approval shall render the "Conditional Use" permit null and void.

**HENTZEN** moved, **WARREN** seconded the motion, and it carried unanimously (11-0).

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11. **Case No. CON2000-00033** - Patricia A. Wierenga (owner) and Deborah S. Wierenga (applicant) request a Conditional Use permit for an accessory apartment on property described as:

Lot 2, East Lynne Addition, Wichita, Sedgwick County, Kansas, generally located west of 127<sup>th</sup> Street East and north of Harry.

**BARRY CARROLL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicants are requesting a Conditional Use Permit for an accessory apartment on 2.9 acres of property zoned "SF-6" Single-Family Residential. The applicants have submitted a site plan, for the 2.9-acre platted lot, that shows the proposed building approximately 30 feet north and east of the existing house, approximately 30 feet west of the east property line and 50 feet south of the north property line (see attachment). Access to the building is from an existing driveway off of Lynne Street. The building is currently under construction and will be completed in September or October 2000. The building is 52 feet wide and 32 feet. The building has a similar architectural design [simulated (Masonite) wood siding and a hipped roof with composite shingles], as does the nearby house. There is water (private well) and sewer service (Four-Mile Creek) connected to the residence and building. There is an all weather gravel-parking surface between the building and residence. The UZC requires one parking space for the residence and one for the accessory apartment. There is more than adequate parking provided on-site.

The property has single-family residential uses to the east and west, a creek to the south and farm ground to the north. All of the surrounding uses are zoned "SF-6" Single-Family Residential.

The building is screened from the properties to the west and north by a solid line of cedar trees. There is also a six-foot wooden screening fence, in addition to vegetation, along the east property line. The applicants have indicated that the structure will first serve as a storm shelter, storage and workshop and a possible accessory apartment at a later date.

Accessory apartments are permitted by Conditional Use Permit in all residential zoning districts, subject to the following standards:

1. A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit and may be within the main building, within an accessory building or constructed as an accessory building.
2. The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood. The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.
3. The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

**CASE HISTORY:** The subject property was platted as part of the East Lynn Addition and approved on October 3, 1953. The City of Wichita annexed the property in December 1999.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6" – Single-Family Residential  
SOUTH: "SF-6" – Single-Family Residential  
EAST: "SF-6" – Single-Family Residential  
WEST: "SF-6" – Single-Family Residential



**PUBLIC SERVICES:** The site has private water well and a municipal sewer system service (Four-Mile Creek).

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the 1999 Comprehensive Plan Update designates this area as being appropriate for "low density residential." This residential category provides for the lowest density of urban residential land use. The growth pattern encouraged by this Plan will see an extension of low-density development on the fringes of Wichita. This request is consistent with the goal of providing for rural, suburban, and urban residential areas, which provide a variety of housing opportunities.

**RECOMMENDATION:** Based upon information available prior to the public hearing, MAPD staff recommends that the request for a Conditional Use Permit to allow one accessory apartment be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. Any violation of these conditions shall render this Conditional Use Permit null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding areas are developed with single-family residences. This accessory apartment is a customary accessory use associated with single-family residences. This is a large lot (approximately two acres) and the proposed building should not significantly increase the density. There will be only one dwelling unit per acre (house and accessory apartment) which represents a very low density.
2. The suitability of the subject property for the uses to which it has been restricted: The Code permits, with a Conditional Use, an accessory apartment in single-family residential districts. The site could continue to be used for single-family use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The use of this site for an accessory apartment should not have a detrimental impact on the area. The apartment will be located in an approved building, which will meet City standards.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the 1999 Comprehensive Plan Update designates this area as being appropriate for "low density residential." This residential category provides for the lowest density of urban residential land use. The growth pattern encouraged by this Plan will see an extension of low-density development on the fringes of Wichita. This request is consistent with the goal of providing for rural, suburban, and urban residential areas, which provide a variety of housing opportunities. The Zoning Code anticipated this type of use and makes specific provisions for it. The site appears to comply with all the provisions outlined in the Code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines.
5. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities.

**CARROLL** "This Conditional Use request is to permit an accessory apartment on an 'SF-6' Single-Family large lot of nearly three acres, located west of 127<sup>th</sup> Street East and north of Harry. East Kellogg is to the north, south on 127<sup>th</sup> Street, Harry is to the south, and this is back west on Lynne Street. It is a beautiful area back there with much landscaping and trees. There is farm ground to the north, and there is a long gravel driveway from Lynne Street north up to the site. To the south there is a creek before Harry Street.

The applicant and agent are here today. The building is currently under construction and will finally be completed in September or October. It is 52 wide and 32 feet by 32 feet. The property has single-family uses to the east and west, a creek to the south, farm ground to the north. The applicants have indicated that the structure will first serve as a storm shelter, storage and workshop, and possibly an accessory apartment at a later date. This property was annexed in December of 1999. It has a private well and municipal sewer service of Four-Mile Creek. We are recommending approval, subject to the following four conditions on Page 3. In summary, we don't believe this request will have any negative impact on the surrounding area."

**MARNELL** "Are there any questions of Barry? Is there anyone else to be heard on this application? Is there anyone in opposition? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding areas are developed with single-family residences. This accessory apartment is a customary accessory

use associated with single-family residences. This is a large lot (approximately two acres) and the proposed building should not significantly increase the density. There will be only one dwelling unit per acre (house and accessory apartment) which represents a very low density. The suitability of the subject property for the uses to which it has been restricted: The Code permits, with a Conditional Use, an accessory apartment in single-family residential districts. The site could continue to be used for single-family use. Extent to which removal of the restrictions will detrimentally affect nearby property: The use of this site for an accessory apartment should not have a detrimental impact on the area. The apartment will be located in an approved building, which will meet City standards. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the 1999 Comprehensive Plan Update designates this area as being appropriate for "low density residential." This residential category provides for the lowest density of urban residential land use. The growth pattern encouraged by this Plan will see an extension of low-density development on the fringes of Wichita. This request is consistent with the goal of providing for rural, suburban, and urban residential areas, which provide a variety of housing opportunities. The Zoning Code anticipated this type of use and makes specific provisions for it. The site appears to comply with all the provisions outlined in the Code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

**BARFIELD** moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

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McKay left the meeting at 3:10 p.m.

Hentzen left the meeting at 3:15 p.m.

12. **Case No. CON2000-00028** - Kimberly Phillips (Owner/Applicant) PEC c/o Gary Wiley (Agent) request Conditional Use to construct self-service storage warehouses on 2.89 acres zoned "SF-6" Single-Family Residential. "GO" General Office is being requested. Generally located east of Woodlawn and north of 17<sup>th</sup> Street North.

**BARRY CARROLL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use permit (a zone change request for "GO" General Office ZON2000-00033 was previously approved by the MAPC) to allow a self-service storage warehouse facility on Parcel 4, a 2.89 acre tract of land. The applicant has submitted a "Woodlawn Court Development" site plan (see attachment). The development plan contains four parcels.

The site plan for the Conditional Use shows a self-service storage warehouse facility on the southern-most parcel (Parcel 4) with 19 storage buildings, one of which contains the office/residence, a maximum of 122,400 square feet of building coverage and a maximum building height of 20 feet. The facility is shown to be enclosed by a combination of the exterior storage building walls with wrought iron fence filling the gaps between the building walls and a wrought iron fence along the south line of the enclosed area.

The site plan shows a 15-foot landscaped yard along the western edge of Parcel 4. A 15-foot landscaping easement, which will be granted by KGE, by separate instrument, is shown along the south property line. The applicant will provide solid landscape screening (evergreen plantings) along the south property line as a buffer between the residential uses to the south. Landscaping, along the north perimeter, which abuts the "LC" and "GO" uses, is not required. It is suggested, however, landscaping be provided along north perimeter of the application area.

Access to all parcels is shown to be from a private drive off of Woodlawn, a four-lane arterial. There is complete access control along Woodlawn with the exception of the one-shared opening.

The applicant also submitted building elevations for the proposed self-service storage warehouse development (see attachment). The building elevations indicated that all building exteriors would share the same exterior building material of either synthetic stucco or masonry for the office/residence and storage buildings. Gable roofs with a height of approximately 20 feet are proposed. Signage shall include a monument sign, not to exceed 12 feet in height nor exceed 50 square feet in gross surface area.

The surrounding area is mainly developed with single-family residential uses to the west, south and southeast. The Hebrew Congregation Synagogue is directly north of the subject property and the First Free Evangelical Church is located

to the northwest across Woodlawn. A KGE Substation is directly east. All of these areas are zoned "SF-6." There is a fire station located just south of the railroad along Woodlawn. The predominate exterior building materials of the properties surrounding the site (synagogue, church, fire station, restaurant, residential houses, shopping center) consist of brick. There is vacant property to the northeast that is part of DP-67 Northborough C.U.P. approved for office use and apartments. The subject property is bordered on the south by a railroad and further south is a fire station. The rail line is shown as a possible rail banking alignment for a bike path.

The property is surrounded by property zoned "SF-6" and used for residential and institutional uses. However, the presence of the KGE substation makes residential use unlikely.

In terms of traffic, the applicant has shown a northbound decel lane into the property. A left-turn storage lane on Woodlawn ends a considerable distance north of the property, in front of Brittany Center. While it would not be the responsibility of the applicant to extend it to this site, it would be recommended that the applicant be asked to participate in provision of a left-turn lane if a city project were done. Finally, the provision of a single point of access will make left-turn movements from the site onto Woodlawn difficult. A second point of access to the north/northwest connecting to Rockhill Road would provide access to the signalized intersection at Woodlawn and Rockhill.

The District Advisory Board for District II met on August 7, 2000 to consider this request (and the associated zone change request). There were a significant number (approximately 20) of citizens present to voice their concern and disapproval of the request. The majority of the comments centered on the issues of traffic, safety and the possibility of decreased property values. Most of the citizens felt that this non-residential use was inappropriate in a residential area. The Board voted 7-1 to recommend disapproval of the Conditional Use request.

To date, approximately 50 property owners have filed a protest petition with the City Clerk indicating their opposition to this request.

**CASE HISTORY:** The subject property is currently unplatted. KGE purchased this property over 30 years ago for possible expansion of an existing substation. A similar request (CU-534 & Z-3332) was filed in July 1999, but withdrawn prior to being considered by MAPC.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-6"	Hebrew Congregation Synagogue, Vacant
SOUTH:	"SF-6"	Railroad, Fire Station, Residential Dwellings
EAST:	"SF-6"	KGE Substation
WEST:	"SF-6"	Residential Dwellings, First Evangelical Free Church

**PUBLIC SERVICES:** This site has one access onto Woodlawn, a four-lane arterial. Traffic volumes for 2000 were 21,732 (ADT) along Woodlawn near 17<sup>th</sup> Street North. Traffic volumes projected for 2030 are projected to be 25,502. Municipal services are available to this site. The proposed self-service warehouse is projected to generate 138 average daily trips (ADT), the furniture store would generate 105 ADT and the two offices would generate 408 ADT. The total of the proposed development would be 651 ADT. If Parcel 4 is developed with office uses, and not the self-service warehouses, the total ADT would be 1,596.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the 1999 Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" development, however the Comprehensive Plan indicates Institutional and Office uses as appropriate uses directly to the north. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zone Code contains development standards for self-service storage warehouses facilities located in the "GO" and "LC" districts. The Area Treatment Classification Map identifies this general location as a "Conservation" area.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to platting (with consideration of traffic improvements) within one year and the following conditions:

1. The development of this property shall proceed in accordance with the site plan as recommended for approval by the Planning Commission and/or the Governing Body. Any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
2. The self service warehouses will be in compliance with the Unified Zoning Code (UZO) requirements, ensuring that due consideration is given to Section III-D.6.y (5) on architectural design that is compatible with the surrounding residential development, which is predominantly brick exteriors with hipped or gabled roofs, and that adequate screening is provided. The colors of the exterior doors of the self-service warehouse shall be of earth tones (and not bright colors) in an effort mitigate the impact to the neighborhood. The exterior building materials shall be predominately brick with metal roofs. The office will have a composite, wood-colored, shingle roof. The building exterior plan shall be reviewed and approved by the Director of Planning.

3. The applicant shall obtain all applicable permits, including but not limited to building, health and zoning.
4. Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business.
5. Outdoor speakers and sound amplification systems shall not be permitted on the site.
6. A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
7. Signage shall include a monument sign, not to exceed 12 feet in height nor exceed 50 square feet in gross surface area.
8. Building heights shall be limited to 20 feet in height.
9. The applicant will provide a northbound decel lane along Woodlawn into the property (along the southeast perimeter of the application area).
10. The applicant will participate in a petition for the provision of a left-turn storage lane along Woodlawn when a City project is scheduled for completion.
11. The applicant shall submit and obtain approval of a Landscaping Plan;
12. If construction is not begun within one year of approval, the Conditional Use permit shall be null and void.
13. Any violation of these conditions shall render this Conditional Use Permit null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is developed with single-family residential uses, a fire station and the Hebrew Congregation Synagogue adjacent to the site, as well as another church across Woodlawn. Commercial uses are located farther north toward Brittany Center. The most directly impacted properties by the proposed development are several residential properties zoned "SF-6" Single-Family Residential located to the west and south, where the character of development is that of predominately brick and wood single-story dwellings, and the Hebrew Congregation Synagogue to the north that is also zoned "SF-6." East of the subject property is a KGE Substation, which is zoned "SF-6." The railroad line adjoining to the south is identified as a potential bike path.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-6" Single-Family Residential ("GO" General Office is being requested) and could be developed for single-family use; however, the site has remained undeveloped since it was purchased over 30 years ago. Additionally, there are high-voltage transmission and distribution lines that run the east-west length of the property and discourages residential use in the immediate vicinity of the lines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant is requesting a "GO" General Office designation for Parcel #4. Assuming that the Governing Body grants the request, the office use could serve as a buffer between the residential uses to the south and the commercial activities concentrated at the intersection of Woodlawn and 21<sup>st</sup> Street North. The property to the north is being requested (and was recently approved by the MAPC) for "LC" and "GO" uses. The intended self-service warehouse use is a low traffic generator with a manager that resides on the premises.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the 1999 Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" development, however the Comprehensive Plan indicates Institutional and Office uses as appropriate uses directly to the north. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zone Code contains development standards for self-service storage warehouses facilities located in the "GO" and "LC" districts. The Area Treatment Classification Map identifies this general location as a "Conservation" area.
5. Impact of the proposed development on community facilities: The presence of a single point of access onto Woodlawn poses potential traffic problems for left-bound turns, both into and out of the property. This impact would be mitigated by the relatively low traffic demand generated by a self-storage warehouse, if it is the actual use located onto Parcel 4. However, should the parcel be developed with commercial and office uses generating greater traffic demand, the need for a left-turn storage lane on Woodlawn and a second point of access to Rockhill Road becomes more important to mitigate traffic issues.

**MARNELL** "Marvin will be abstaining from participation on this item."

**CARROLL** "This is associated with a zone change that came before you two weeks ago. This area is just north of 17<sup>th</sup> Street on the east side of Woodlawn. This is approximately a 3-acre parcel. There is a railroad track east and west, a fire station just south of the tracks along Woodlawn.

You were provided an overall development plan. Today we are dealing just with this Parcel No. 4 down at the bottom. You have also been provided a plan for the self-service warehouses. As you probably recall from last time, they are putting in a water pipe through here.

We have the applicant, the agent, and the developer of the proposed warehouses here today to answer any questions that you might have. They are proposing to put a self-service warehouse on Parcel No. 4 with 19 storage buildings and one which would contain an office residence. The site plan is showing a 15-foot landscape yard along the western edge of Parcel 1 and a 15-foot landscaping easement along the south property line, which will be double rows of solid evergreen plantings. Access to all parcels will be from a private drive along Woodlawn. The predominant exterior building materials of the property surrounding this site; the Synagogue, the church, the Fire Station, the restaurant, the residential housing and a shopping center is predominantly that of brick.

On August 7, 2000, the District Advisory Council for District II considered this case along with the zone change request. As you recall, they approved the zone change request, but for this particular Conditional Use request, voted 7-1 to recommend disapproval. You were given an attached memorandum. The subject property is currently unplatted. It has been vacant for the past 30 plus years. A similar request was filed in July of 1999 for self-storage but was withdrawn prior to being considered by the MAPC. We are stating that the self-service generates less traffic than any other potential uses for this site. We are estimating that a self-service warehouse would generate 138 average trips per day, which is much less than any other residential or commercial use.

We are recommending approval, subject to the 13 conditions. I would like to bring to your attention three items. We met with Gary Wiley and Mr. Moeder this morning. We have made some agreements. On Item No. 2, they did agree to put brick on the south, west, and north sides of the self-service warehouse. We agreed to limit the composite shingles to the office building only. On Item No. 7, the signage, we agreed to 50 square feet for a monument sign, rather than the 32 feet proposed. Finally, on Item No. 8, we increased the height of the roof from 15 to 20 feet. That concludes my comments. I will respond to any questions that you might have."

**MICHAELIS** "Will you go over the reference you made to the roof?"

**CARROLL** "Yes. We had put in there about composite shingles and we agreed to require the composite shingles only for the office use and not necessarily the remainder of the structure."

**MICHAELIS** "So what would they be?"

**CARROLL** "Metal."

**MICHAELIS** "Like a standing seam type?"

**CARROLL** "Yes. I think the developer may want to explain about the roof design to you."

**MILLER** "I would like to help clarify that originally the applicant was proposing Stucco or Exterior Insulation Finish Systems (EIFS), and that is what is on the drawing he has provided here. But because the predominant building materials in that area are pretty much brick, that is why we wanted to recommend the brick. They came in the morning and had a meeting and we kind of compromised to that point. They were willing to do the brick and we were willing to do some other things here that we changed. It seemed like we were all on the same page, but the drawing does depict an EIFS surface, but that gives you some idea of what he originally had in mind."

**WARREN** "And you said the brick would be on the front elevations of the west, south and north?"

**MILLER** "Yes."

**CARROLL** "And I might add that the doors will be of an earth tone color, not a bright blue. Something that would be non obtrusive to the neighborhood."

**MARNELL** "Barry, those changes that you were talking about, you have now incorporated those into your staff comments?"

**CARROLL** "That's correct. I would have to, on the final conditions, make those corrections."

**JOHNSON** "And you said that the only way to enter any of these facilities is off of that private road?"

**CARROLL** "That is correct. There will be a decel lane right there and on to the private driveway in the middle."

**JOHNSON** "Okay. Over to the offices?"

**CARROLL** "Yes. The offices will be up here (indicating) and the self-storage down there."

**OSBORNE-HOWES** "What is the predominant roofing material in here?"

**CARROLL** "It is mixed. There are some composite, some shake shingles, and some flat roof."

**LOPEZ** "Flat roof on residential?"

**CARROLL** "No, for the fire station, and the synagogue."

**MARNELL** "Are there any other questions of Barry? We will hear from the applicant then."

**GARY WILEY** "I am here on behalf of the applicant and the contract purchaser, Mr. Leo Moeder. As Barry said, we had a meeting this morning and came to an agreement on all of the items as Barry has brought them out to you. We are in agreement with those. Mr. Moeder has passed out to you some color shots of his newest facility that he has built out at the old Frontier Village area. It is the drivet material. He just wanted you to see what he really wanted to do. We are in agreement with the brick, however.

I know that Mr. Moeder would maybe like to speak to you in regards to that. We are in agreement, like I said with all of the comments regarding the construction of the deceleration lane to the private road going into the site, as well as participating in a left-turn lane as far as the southbound Woodlawn traffic. We are in agreement with all of those. I would be happy to answer any questions that you have."

**MARNELL** "I have a question. Is this picture a representation of what the representation of what the interior of this facility will look like since the brick is going to be on, as I understand it, just around on the outside?"

**WILEY** "No. The interior will be a pre-manufactured metal building interior. Just the brick on the perimeters of the side."

**MARNELL** "On the viewable outside of all of those three views?"

**WILEY** "Right. And the roof of these structures will be an earth tone also, rather than the red as shown on here."

**LOPEZ** "Since the August 7<sup>th</sup> meeting, the comment at the bottom of the page 'the developer will meet with the residents', have you met with the residents?"

**WILEY** "We have tried. As I mentioned the last time, I tried to contact John Shaft after the meeting, and I have not heard back from him."

**LOPEZ** "And that is the only time?"

**WILEY** "Yes. I know that Mr. Carroll was at the D.A.B. meeting, and he joined in some of the conversations after the meeting where we did offer to have a meeting. We said we would hold it at my office or anywhere else that Mr. Shaft could find a place for it."

**LOPEZ** "My comment is that the residents are not aware of the proposed changes; the brick exterior with the metal interior, the roof with standing seam metal."

**MARNELL** "Are there any further questions of Mr. Wiley?"

**WILEY** "Mr. Moeder would like to speak."

**MARNELL** "Okay. Mr. Moeder?"

**LEON MOEDER** "As Gary has said, the staff comments in the meeting we had this morning were very well taken and we appreciate them. One small thing that I would just like to throw back out in regards to our designs.

Our designs have been Stucco. That was our preference. All of the new buildings in the Light Commercial and the Office are going to be a synthetic Stucco. We would like to be able to meet that, but on the pleasure of the Commission, if it is felt that brick is the appropriate, then we will do brick as required. Our preference, to preserve the design integrity of one system to the next, and this is what we are going to. I adapted the synthetic Stucco and the standing seam roofs after a couple of weeks of backpacking in New Mexico. I fell in love with all of the small structures that you see throughout the Taos area and the rest of the mountain area. That is what we reproduced there. You can see it in your pictures; the pine whitewashed columns, those kinds of things. We would have liked to have done that. We would have preferred to do that, but we will do the brick if we have to.

I would rather see us integrated into the entire development to match the furniture store that will probably be coming and to match the office building. All of those being Stucco, which are much more in proximity to us than the residential, which is 200 feet away from us, predominately. The Fire Station is the first thing you see; it is closest to us. So if there are any questions, I would be happy to answer them. Those are our basic thoughts today."

**WARREN** "The metal roofs now, they will be standing seam roofs?"

**MOEDER** "Of a standing seam roof? Well, a standing seam roof is a technical term. They are not standing seam roofs, they are metal roofs with a seam that does rise, but a standing seam roof is a very specific technical term and I don't want to get caught up saying 'yes', because no, they aren't. Does that totally confuse the answer? I didn't mean to."

**MICHAELIS** "The original design that you were talking about with the Stucco, was that a 'standing seam roof'?"

**MOEDER** "Throughout. That is what we have always proposed. That is what we talked about when we presented it to the neighborhood. We have always looked at doing a development exactly like we did in West Wichita, but we will make those changes here and go to the composite shingles on the main building that is seen mostly from the street."

**MICHAELIS** "I want to make sure that I am thinking like you are thinking. When I think standing seam, I am thinking about 12 inches apart with a standing seam, flat in between a standing seam."

**MOEDER** "Yeah."

**MICHAELIS** "Now that is what you would have done with the Stucco ones, but if you are going back to an all metal building in the middle, you are going to use just the normal manufactured metal roof, is that correct?"

**MOEDER** "We have not changed our roof concept from Day 1. Our original design concept on this project was to do Stucco around the perimeter walls, just like we have said we will do brick today. That has been our original design concept."

**MICHAELIS** "So you were never going to do this throughout the entire project?"

**MOEDER** "No, I never intended to do that and I never really represented to that. It has always been pre-manufactured building."

**MARNELL** "Are there any other questions? Thank you. Is there anyone here to speak in favor of this application? Is there anyone to speak in opposition?"

**CHARLIE WILSON** "I am the Vice-President of Berexco. It is an oil and gas company here in Wichita. Currently we are officing downtown. We have 60 employees in our office here and about 300 out in the field. We have recently acquired 13 acres on this piece of ground right there (indicating). That 13 acres is called Bramblewood right there as it comes off 21<sup>st</sup> Street. Brittany Towers, which are the office buildings right there, and we plan to build our headquarters right there. Then our concept is to build an upscale office park of general office space. Right now, we are close to getting approval to break ground on about a 25,000 foot building, which will be brick and of a collegiate looking style. Our game plan was to do an office park in that area."

I know that a lot of the really nice offices are east of there, and our idea was to come back and kind of backfill in this part of Wichita and perhaps develop a really nice area that would be attractive because it is close to a large residential area and also from the expressway you can access it very easily. Our concern is that because of the dollar amount that we are committing to this building is that we want to make sure that the area maintains its integrity and don't want to see anything that would possibly degrade the value of the area, just on the premise of self-storage units, right away we became nervous of what that was going to create in terms of just the aesthetic value of that area.

I notice in the staff recommendations under No. 11, it says 'the applicant shall submit and obtain approval of a landscaping plan'. I don't know what that means and I don't know by whom that is approved, is it the area or if it is you all, or Mr. Carroll and the applicant. I'm not sure, and I see this rendering which looks pretty attractive with all of the greenery around it, but on the exhibit there is nothing on it, or the one I received. So I don't know what that means in terms of landscaping. Obviously we are not against development by any means, but we would like to maintain the integrity and move things in a way that is not going to take away from the value of not only the investment we have made, but also just looking after the residential area that exists in that area. From what we have seen so far, we would like to propose that you disapprove this application. I will answer any questions."

**MARNELL** "Dale, do you want to answer his question about the approval?"

**MILLER** "Yes. Typically, on a landscape plan, the applicant would indicate what they are doing and in this case, I believe they are showing 20 foot on centers, two rows of pines and evergreens, and then the front is a conceptual drawing of trees. Part of them may be existing out there today, but we are also concerned that some of them are going to be taken out when they do their right turn. They will submit a full-blown plan that will identify each plant, the plant name, where it is going to be and the initial planning sizes. That is approved by the Planning staff, using the Landscape Ordinances minimums, but based on whatever is approved here today."

**WILSON** "I know that first hand that there aren't any trees along there now, so to build that turn-in lane, these trees would have to be added, right?"

**MILLER** "That's correct. If they aren't there today, they will be added."

**WILSON** "Okay. Are they deciduous or are they pine trees, a spruce-type, or what? I am thinking that the Spruce Pine would hide this. I am not sure that the applicant wants to hide his business, but just thinking in terms of the aesthetics. Whereas the pine trees above the residential area certainly creates a nice buffer."

**MILLER** "The way he is showing it today, it will be evergreens, pine type trees on the south. I think those are deciduous, but I would let the applicant elaborate on what they had in mind. Staff will work with him and make sure that we get something that meets with what the intent of the approval is."

**JOHNSON** "Sir, how far is your site from this location where the self-storage is going to be?"

**WILSON** "In terms of feet, I couldn't say, but it would be right about here (indicating). This whole piece of ground right here."

**JOHNSON** "To the north of your location, or to the east or west, is there anything that is probably not up to standards?"

**WILSON** "Immediately across the street from our location are the Brittany Office Towers, which are 5 stories, those twin towers; to the north is about an 8 foot brick fence that separates our property from what was the Wichita Sports or Jumbo Sports, and an Aldi Store. The Jumbo Sports was right there (indicating), the Aldi is right there, and there is about an 8-foot brick wall that goes right there. (Indicating) over here is a Manor Care Nursing Home, which is of very attractive construction, and then all of this over here is undeveloped. It is kind of like a nature preserve at the moment. Then the 13 acres that we have, which is the rest of that green right there (indicating) is where we would build our building right there. Then our plans are to build perhaps four,...up to five buildings are currently approved on that."

**JOHNSON** "I guess the last question I am curious about since you are building an office building, did the Planning Commission pick your material out to put on your building?"

**WILSON** "No. We haven't submitted anything, but currently the plan is brick."

**JOHNSON** "Is it required to have brick on it?"

**WILSON** "Are you asking Mr. Carroll or me? The architects and the engineer that was involved in the C.U.P. have already seen our architectural rendering, so I guess I would say by de facto, yes."

**JOHNSON** "Okay."

**MARNELL** "Are there any further questions?"

**BARFIELD** "Sir, your planned development would be confined to that green area over there, or would you be going down into that orange area?"

**WILSON** "No, it is in the green area, that's right. We own 30% undivided interest in that orange area also, which is currently zoned for multi-family units. But since we are getting ready to put some real money into the green area, that is our biggest concern right now."

**MARNELL** "Thank you. Is there anyone else to speak in opposition to this item? Okay, the applicant has time for rebuttal."

**WILEY** "I will be real brief. We have checked with Tree Top Nursery and all of those trees that are along the Woodlawn frontage are moveable, even though they are probably up to 6" caliber trees. It is our plans to save those trees and move them back as the deceleration lane is built through that area."

Mr. Wilson was commenting that as he had indicated, I was going to suggest that that area to the south of his proposed office complex is zoned multi-family. I platted that as Northborough Fourth Addition. It was zoned years ago. It has been there for some time, undeveloped.

I would just like to point out, as Mr. Miller mentioned, that we will do a landscape plan. In fact, Mr. Moeder's wife, Susan, is a landscape architect and has worked with Donna Goltry, and I think Donna is quite pleased with the landscape plans that she gets from Mrs. Moeder. I would be happy to answer any questions."

**BARFIELD** "What type of screening are we talking about on the north?"

**WILEY** "What that will be is the buildings themselves with wrought iron fencing between with landscaping along between it and the road."

**BARFIELD** "I mean on the north side."

**WILEY** "On the north side, yeah. What we have is the office up here (indicating) and there is a road that goes right to the north edge of the proposed storage warehouses. There is a 70-foot area that has that KG&E 69,000 volt line through there, so we will be doing some landscaping between the roadway and the north edge of those structures. Those



structures will be brick or the drivet system, whatever you decide. There won't be screening on the north, but there will be landscaping on the north."

**MICHAELIS** "I don't know if this is a question for you, Gary, or for the applicant. I don't know where I am at on this yet, but one thing I would like to see is that if we are talking about doing brick on the northwest and south that we also do it on the east, because at some point in time, somebody is going to come in there on the east and develop something there."

**MARNELL** "That's the KG&E substation."

**WILEY** "Yeah, the substation is right there, Jerry, within 70 feet of our property. That was the only reason."

**MICHAELIS** "Okay."

**OSBORNE-HOWES** "I am going back to the D.A.B. meeting. It said that they were not furnished any artists' renderings. Did you present those at the D.A.B. meeting?"

**WILEY** "We did not have them at that time."

**OSBORNE-HOWES** "You did not. I don't know where I am at on this either."

**WILEY** "What D.A.B. saw was the site plan only, and we just kind of described what we were planning on."

**OSBORNE-HOWES** "And then I am going to go back to the staff report. The staff recommendation was for composite or wood shingle roof. Is that how it was presented to them?"

**WILEY** "No. Not to the D.A.B."

**OSBORNE-HOWES** "Because one of the things that I have been thinking through the last month, and I guess I have been looking at facilities and I guess I will compare them to assisted living facilities, let's say, they are very tightly contiguous units that really you could say that that could be an assisted living center complex or it could be self-storage, or it could be something else. They try to make them conform to what the neighborhood looks like. So I came in here, really with a very open mind, thinking that this might be appropriate, but then when I hear about the roof and such, I am thinking of it less as something that would fit into the residential area."

Now, I understand that this is not all residential, and maybe you are not trying to do that. At the same time, you are being asked whether you were willing to conform with mostly brick exterior so that it could conform, so I guess I am wondering why not composite?"

**WILEY** "Because you have to have a stick-built facility to do the composite roof. You don't put that on a metal building."

**OSBORNE-HOWES** "Oh, okay. So you couldn't do that. Okay."

**WILEY** "No. We are, on the office."

**OSBORNE-HOWES** "So the office is not a metal building?"

**WILEY** "No."

**OSBORNE-HOWES** "Oh, I see."

**WILEY** "It is a 16,800 square foot facility, and it sits up front, closest."

**MARNELL** "Are there any further questions of the applicant? I will bring it back to the Commission for any further discussion."

**WARREN** "We had this to look at somewhat two weeks ago when the zoning took place here. The concerns that I heard most out of those discussions were aesthetics and traffic. Those were the two things that came up most. It seems to me like the aesthetics have been pretty well answered with the landscaping and the isolation from the east and from some of the other areas. So I think that has been addressed. And traffic, when we look at the other possible uses for this, I think this is probably the best use. So I lean towards this project, subject to the restrictions and controls, the brick they have added. I think it can be a good neighbor."

**OSBORNE-HOWES** "Can I hear from staff where they are with these new offerings?"

**CARROLL** "We met this morning, and we felt like the agent and applicant made an agreement to go with the brick even though they would prefer Stucco, so we felt like they made a good faith effort with that. Then, about the roof for the composite for the office, and then the 20-foot high from 15 to 20, we thought that was reasonable to get more pitch on the roof. And then the 32 to the 50 square feet on the monument sign. So basically, we are supportive of that."

**OSBORNE-HOWES** "So you are okay with it. Thank you."

**BARFIELD** "I just want to ask staff if they are satisfied that this applicant has made a concentrated effort to meet with the residents? Two weeks ago, that was a big concern. None of the people on the west side had been contacted by the applicant, by the City staff, by anybody. Are you satisfied with that?"

**CARROLL** "I am satisfied. After the D.A.B. meeting, we went outside where they had more business to take care of. We met informally with them and the individual said he was going to put a meeting together and then to make doubly sure, we did mail public notices to all of the adjacent neighborhood associations, both in District I and in District II. Quite frankly, I have been surprised that I didn't receive more phone calls on it. I haven't received hardly any."

**JOHNSON** "I think another thing that kind of makes this unique, it is off of a private drive off of Woodlawn. They are going to add a right-turn lane off of Woodlawn, and where it is coming off a private drive, and I don't really want to get on my soapbox about metal roofs, but I think before too much longer, you will see a lot of 'colored' either standing seam or screwed-on roofs on residential construction. It is a coming thing and we may be starting a trend here that is kind of ahead of its time. I think we ought to be open-minded about that."

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is developed with single-family residential uses, a fire station and the Hebrew Congregation Synagogue adjacent to the site, as well as another church across Woodlawn. Commercial uses are located farther north toward Brittany Center. The most directly impacted properties by the proposed development are several residential properties zoned "SF-6" Single-Family Residential located to the west and south, where the character of development is that of predominately brick and wood single-story dwellings, and the Hebrew Congregation Synagogue to the north that is also zoned "SF-6." East of the subject property is a KGE Substation, which is zoned "SF-6." The railroad line adjoining to the south is identified as a potential bike path. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-6" Single-Family Residential ("GO" General Office is being requested) and could be developed for single-family use; however, the site has remained undeveloped since it was purchased over 30 years ago. Additionally, there are high-voltage transmission and distribution lines that run the east-west length of the property and discourages residential use in the immediate vicinity of the lines. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant is requesting a "GO" General Office designation for Parcel #4. Assuming that the Governing Body grants the request, the office use could serve as a buffer between the residential uses to the south and the commercial activities concentrated at the intersection of Woodlawn and 21<sup>st</sup> Street North. The property to the north is being requested (and was recently approved by the MAPC) for "LC" and "GO" uses. The intended self-service warehouse use is a low traffic generator with a manager that resides on the premises. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the 1999 Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" development, however the Comprehensive Plan indicates Institutional and Office uses as appropriate uses directly to the north. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zone Code contains development standards for self-service storage warehouses facilities located in the "GO" and "LC" districts. The Area Treatment Classification Map identifies this general location as a "Conservation" area. Impact of the proposed development on community facilities: The presence of a single point of access onto Woodlawn poses potential traffic problems for left-bound turns, both into and out of the property. This impact would be mitigated by the relatively low traffic demand generated by a self-storage warehouse, if it is the actual use located onto Parcel 4. However, should the parcel be developed with commercial and office uses generating greater traffic demand, the need for a left-turn storage lane on Woodlawn and a second point of access to Rockhill Road becomes more important to mitigate traffic issues.) I move that we recommend to the governing body that the request be approved, subject to platting within one year and to the following:

1. The development of this property shall proceed in accordance with the site plan as recommended for approval by the Planning Commission and/or the Governing Body. Any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

2. The self service warehouses will be in compliance with the Unified Zoning Code (UZC) requirements, ensuring that due consideration is given to Section III-D.6.y (5) on architectural design that is compatible with the surrounding residential development, which is predominantly brick exteriors with hipped or gabled roofs, and that adequate screening is provided. The colors of the exterior doors of the self-service warehouse shall be of earth tones (and not bright colors) in an effort mitigate the impact to the neighborhood. The exterior building materials shall be predominately brick with metal roofs. The office will have a composite, wood-colored, shingle roof. The building exterior plan shall be reviewed and approved by the Director of Planning.
3. The applicant shall obtain all applicable permits, including but not limited to building, health and zoning.
4. Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business.
5. Outdoor speakers and sound amplification systems shall not be permitted on the site.
6. A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
7. Signage shall include a monument sign, not to exceed 12 feet in height nor exceed 50 square feet in gross surface area.
8. Building heights shall be limited to 20 feet in height
9. The applicant will provide a northbound decel lane along Woodlawn into the property (along the southeast perimeter of the application area).
10. The applicant will participate in a petition for the provision of a left-turn storage lane along Woodlawn when a City project is scheduled for completion.
11. The applicant will submit and obtain approval of a Landscaping Plan.
12. If construction is not begun within one year of approval, the Conditional Use permit shall be null and void; and
13. Any violation of these conditions shall render this Conditional Use Permit null and void.

**WARREN** moved, **JOHNSON** seconded the motion.

**MARNELL** "Any further discussion? It has been moved and seconded."

**VOTE ON THE MOTION:** The motion carried with 7 votes in favor (Osborne-Howes, Marnell, Johnson, Warren, Warner, Carraher and Michaelis) and 2 in opposition (Barfield and Lopez).

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**13a. Case No. CUP2000-00021 (DP254; Kiser West CUP) with ZON2000-00022** - Kiser Properties LLC c/o John L. Kiser (owner); Ritchie Associates, Inc. c/o Rob Ramseyer (Applicant); MKEC Engineering Consultants, Inc. c/o Greg Allison (Agent) request the creation of the Kiser West Community Unit Plan and rezoning to "LC" Limited Commercial and "MF-18" Multi-Family Residential, associated with:

**13b. Case No. ZON2000-00022** - Sedgwick County zone change to "LC" Limited Commercial and "MF-18" Multi-Family Residential, located on the southwest corner of 13<sup>th</sup> Street and Greenwich Road, described as:

Beginning at the Northeast corner of the Northeast Quarter of Section 16, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, thence West 642 feet; thence South 2656.7 feet more or less to a point on the South line of said Northeast Quarter, which is 666 feet west of the Southeast corner of said Northeast Quarter; thence East 666 feet to the Southeast corner of the said Northeast Quarter; thence North 2657.2 feet to the place of beginning. Generally located on the southwest corner of 13<sup>th</sup> Street North and Greenwich.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting to create the Kiser West Community Unit Plan on a 35.3 acre unplatted tract located at the southwest corner of 13<sup>th</sup> Street North and Greenwich. The applicant is also requesting to rezone a portion (25.93 acres) of the subject property from "LC" Limited Commercial (7.44 acres) and "SF-20" Single Family Residential (18.49 acres) to "LC" Limited Commercial (13 acres) and "MF-18" Multi-Family Residential (12.93 acres).

As shown on the development plan (attached), the applicant proposes to divide the subject property into seven parcels. Parcels 1-5 (13 acres) are proposed for "LC" Limited Commercial zoning and all uses permitted by-right in the "LC" district

except group homes; correctional placement residences; adult entertainment and private clubs; vehicle storage yards; storage of Class-C fireworks; poultry or rabbit dressing; tire retreading or recapping; residential uses; taverns and drinking establishments; night clubs; grain storage; and concrete or asphalt plants. Parcel 6 (12.93 acres) is proposed for "MF-18" Multi-Family Residential zoning and all uses permitted in the "MF-18" district. Parcel 7 (9.37 acres) is proposed for "SF-6" Single-Family Residential zoning and all uses permitted in the "SF-6" district. The applicant has not requested to rezone Parcel 7 at this time; rather, the applicant indicated that the intended rezoning of the parcel would be accomplished through annexation of the property into the City of Wichita.

Parcels 1-5 are proposed for a maximum 30% building coverage and a maximum 35% gross floor area ratio. Parcel 6 is proposed for 18 dwelling units per acre. A maximum residential density is not proposed for Parcel 7; rather, the applicant proposes a minimum lot size of 6,000 square feet with a maximum building coverage of 30%. A maximum building height of 35 feet is proposed for Parcels 1-5 and Parcel 7, with a maximum building height of 45 feet proposed for Parcel 7. Landscaping is proposed per the City of Wichita landscape code. Signs are proposed to be monument type with a height not to exceed 20 feet. Sign square footage is proposed to be limited to 80 percent of street frontage with signs spaced at least 150 feet apart. No other sign restrictions are proposed, and no indication is given regarding the proposed signage for the residential development. Building setbacks of 35 feet on the front and 20 feet on the rear are proposed for commercial properties. Building setbacks of 25 feet on the front, 20 feet on the rear, and six feet on the side are proposed for residential properties. No building setback is proposed where commercial properties adjoin residential properties. Architectural control is proposed for all buildings in Parcel 1-5. No indication is given regarding the architectural design of the proposed high-density residential development. Parcels 1-5 are proposed to have one access opening along 13<sup>th</sup> Street North and two access openings along Greenwich, which are aligned with the access openings approved for the Gateway Center CUP. Parcels 6 and 7 are both proposed to have two access openings along Greenwich, with the southern access opening for Parcel 6 either aligned with or separated at least 150 feet from the access opening approved for the Killenwood Pointe Addition. No off-site traffic improvements are proposed.

The surrounding area is characterized by a three-square mile industrial complex for Raytheon to the north, south, and west and a developing suburban area with significant amounts of remaining undeveloped property for both residential and commercial use to the east. Undeveloped property east and northeast of the site across Greenwich has been approved for commercial development under the 59 acre Gateway Center CUP and the 20 acre Dillons 13<sup>th</sup> and Greenwich CUP. Undeveloped property zoned for residential development also is located east and northeast of the site. The nearest properties developed with residential uses are located in the Preston Trails subdivision that is located immediately southeast of the site across Greenwich.

The site is located at the north end of the airfield runway located on the Raytheon industrial complex. Due to the site's close proximity to this runway, planning staff contacted the administration at Raytheon who indicated opposition to the proposed uses as detailed in two attached letters. The site also is located within Area A of the Wichita-Sedgwick County Airport Hazard Zoning Map, which requires a permit exemption for structures that exceed 25 feet in height.

While only applicable to the runways at McConnell Air Force Base, the Unified Zoning Code contains an Airport Overlay District that restricts land uses that concentrate large numbers of persons underneath runway takeoff and approach paths, where aircraft accidents are most likely to occur and noise levels are inappropriate for urban-density residential and high-intensity non-residential uses. Were the Airport Overlay District to be applied to the runway at Raytheon, a majority of the subject property would be located in the East Subdistrict of Airport Overlay I-North, which only permits the following uses: agriculture; storage and warehouse areas; runways, taxiways, and hangars; parking uses; storage yards; warehouses; concrete or asphalt plants; cemeteries; and wholesale trade of motor vehicle parts, medical supplies, plumbing equipment/supplies, industrial machinery, lumber yards, farm supplies, and similar materials.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC", "SF-20", & "GI"	Undeveloped, Raytheon
SOUTH: "SF-20"	Raytheon
EAST: "LC" & "SF-20"	Undeveloped
WEST: "L"	Raytheon

**PUBLIC SERVICES:** The site has access to 13<sup>th</sup> Street North, a four-lane arterial, and Greenwich, a two-lane arterial. Traffic volumes on 13<sup>th</sup> Street North are approximately 5,700 vehicles per day and are projected to increase to approximately 17,500 vehicles per day in the 2030 Transportation Plan. Traffic volumes on Greenwich are approximately 3,500 vehicles per day and are projected to increase to approximately 16,500 vehicles per day in the 2030 Transportation Plan. The estimated traffic volumes in the 2030 Transportation Plan do not include the impact of the 59 acre Gateway Center CUP, which is estimated generate an additional 23,600 vehicles per day. As proposed, commercial and high-density residential development on the subject property would generate another 10,000 vehicles per day. The site is not currently served by public water or sewer service; however, public water and sewer are available to be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide in the 1999 Update to the Comprehensive Plan indicates that the site is appropriate for "Industrial" development. The Industrial Locational Guidelines in the 1999 Update to the Comprehensive Plan indicates that industrial areas should be located in close proximity to support services and be

provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports, and as extensions of existing industrial uses. The subject property meets these locational guidelines.

The Wichita Land Use Guide in the 1999 Update to the Comprehensive Plan indicates that neighborhood commercial centers ranging in size from 4-15 acres should be permitted only at one or two corners of an arterial intersection to allow for market competition but to avoid excessive concentration of commercial development and consequent traffic congestion at the intersection. The intersection of 13<sup>th</sup> Street North and Greenwich has already been approved for 79 acres of commercial development, which is almost three times greater the amount commercial development than the 15-30 acres of commercial development recommended by the Land Use Guide for arterial intersections.

**RECOMMENDATION:** Based upon numerous factors, planning staff finds the subject property inappropriate for commercial and residential uses and finds instead that the site should be used for industrial purposes. First, the site is located at the end of a runway where aircraft accidents are most likely to occur and noise levels are inappropriate for urban-density residential and high-intensity non-residential uses. Second, industrial uses involve much lower concentrations of people than the proposed commercial and residential uses and are more appropriate for a location so near the end of a runway. Third, the intersection of 13<sup>th</sup> Street North and Greenwich has already been approved for more commercial development than recommended by the Comprehensive Plan, and additional commercial and high-density residential development at this intersection would lead to further traffic congestion at the intersection in the future. Industrial use of the subject property would generate about one-third as much traffic as the proposed commercial and high-density residential uses. Fourth, as proposed, the development plan lacks many of the development controls and design features typically included in Community Unit Plans.

Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED. Planning staff recommends that the subject property be zoned "IP" Industrial Park with a Protective Overlay to prohibit uses involving large congregations of people, which would require a new application and a new notification/public hearing process since the "IP" district is more intensive than the "LC" and "MF-18" districts requested by the applicant. The "IP" Industrial Park zoning district is recommended because it allows the warehousing and wholesale trade uses that are appropriate for the subject property while prohibiting many of the commercial uses that are permitted in the other industrial zoning districts. The "IP" Industrial Park zoning district also requires high development and performance standards, which would make industrial uses on the subject property more compatible with nearby residential properties.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject property is surrounded on three sides by industrial property located within the three-square mile Raytheon industrial complex. The size and intensity of this industrial complex, including an airfield runway located immediately west of the subject property, dominates the existing character of the neighborhood. East of the subject property is undeveloped land approved for extensive commercial development.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is currently zoned "LC" Limited Commercial and "SF-20" Single-Family Residential. Due to the site's proximity to the Raytheon runway where aircraft accidents are most likely to occur and noise from the airfield will significantly impact adjacent uses, the site is not suitable for urban-density residential and high-intensity non-residential uses. The site is most suitable for industrial uses such as warehousing and wholesale trade.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Use of the subject property as proposed for commercial and high-density residential uses will detrimentally impact the ability to operate the airfield serving the Raytheon industrial complex. Complaints from residents and business owners regarding noise from the airfield may lead to restrictions on the operation of the airfield. Traffic from the proposed commercial and high-density residential uses would congest the arterials providing through-traffic access for the large number of Raytheon employees.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The subject property is located within Area A of the Wichita-Sedgwick County Airport Hazard Zoning Map, which requires a permit exemption for structures that exceed 25 feet in height. The Airport Hazard Zoning Map was adopted to ensure that incompatible uses are not located near airfield runways to help prevent aircraft accidents. In addition, uses involving high concentrations of people such as the proposed commercial and high-density residential development should not be located in areas, such as the subject property, where aircraft accidents are most likely to occur in order to limit the number of casualties involved with aircraft accidents.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide in the 1999 Update to the Comprehensive Plan indicates that the site is appropriate for "Industrial" development. The Industrial Locational Guidelines in the 1999 Update to the Comprehensive Plan indicates that industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports, and as extensions of existing industrial uses. The subject property meets these locational guidelines.

The Wichita Land Use Guide in the 1999 Update to the Comprehensive Plan indicates that neighborhood commercial centers ranging in size from 4-15 acres should be permitted only at one or two corners of an arterial intersection to allow for market competition but to avoid excessive concentration of commercial development and consequent traffic congestion at the intersection. The intersection of 13<sup>th</sup> Street North and Greenwich has already been approved for 79 acres of commercial development, which is almost three times greater the amount commercial development that the 15-30 acres of commercial development recommended by the Land Use Guide for arterial intersections.

6. Impact of the proposed development on community facilities: As proposed, the commercial and high-density residential uses of the subject property would generate an additional 10,000 vehicles per day. Such levels of traffic would likely lead to peak-hour traffic congestion even if the two arterials are significantly improved to include four through lanes of traffic with left and right turn lanes. None of these traffic improvements are proposed by the applicant.

**MILLER** "Commissioners, as indicated earlier, on this particular case we had discussions with the applicant yesterday and today. The agent is here. They do wish to ask for a deferral of five weeks. Staff is agreeable to that. There may be people here in the audience that are here to speak to it that you might want to hear.

If you are amenable to the deferral, then we will defer any action to a later date, but we are okay with the request for a deferral. They have advised us that members of their application are meeting with the Raytheon folks as we speak, or were, and that would be a positive thing, since they are one of the adjacent property owners. I would be happy to respond to any questions."

**MARNELL** "Is there anybody here who wants to speak on this item?"

**MIKE JONES** "I am with the Martin Pringle Law Firm. I represent Raytheon Aircraft. Staff is correct, I understand that there is a meeting going on right now on this topic. We do not object to deferring this. It is my understanding; however, in talking to a representative of the applicant that we are now looking at, perhaps October 19<sup>th</sup> as the date for bringing this up again. I checked with Marvin and he indicates that that is an appropriate date. That is our position. We will reserve our comments until then."

**MARNELL** "Is there anybody else to be heard on this item?"

**MOTION:** That the item be deferred to the October 19, 2000 meeting.

**WARREN** moved, **JOHNSON** seconded the motion.

**KROUT** "It will be at the front of the agenda, at or near the 1:30 start time, and we will send out a notice once we accept that date."

**WARREN** "Will we be given new information?"

**KROUT** "We will send out a new staff report. You will forget about it and we will forget about it."

**VOTE ON THE MOTION:** The motion carried unanimously.

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**MARNELL** "Is there any further business? Marvin?"

**KROUT** "I have none."

**MARNELL** "Nothing from the Commission? I would entertain a motion for adjournment."

**CARRAHER** moved, **WARNER** seconded the motion, and it carried unanimously.

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The Metropolitan Area Planning Commission formally adjourned at 3:55 p.m.

State of Kansas       )  
Sedgwick County    ) <sup>ss</sup>

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

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Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)